

CALIFORNIA COASTAL COMMISSION

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W11b**Prepared July 23, 2003 (for August 6, 2003 hearing)****To:** Commissioners and Interested Persons**From:** Diane Landry, District Manager
Dan Carl, Coastal Planner**Subject: Santa Cruz County LCP Major Amendment Number 1-03 Part 1 (Wireless Facilities Ordinance)** Proposed major amendment to the Santa Cruz County certified Local Coastal Program to be presented for public hearing and Commission action at the California Coastal Commission's August 6, 2003 meeting to take place at the Hyatt Regency Huntington Beach, 21500 Pacific Coast Highway, in Huntington Beach.

Summary

Santa Cruz County is proposing to add wireless communications facility (WCF) ordinance sections to its certified Local Coastal Program (LCP) Implementation Plan (IP, also known as the LCP zoning code). Currently, WCFs (such as cellular telephone facilities, towers, and antennas for transmitting electromagnetic/radio signals) aren't explicitly addressed by the LCP. Such facilities do, however, represent development that is regulated by the current LCP in the coastal zone, including being subject to the use and design standards of the underlying zone districts in which they may be proposed. The new proposed ordinance provides specific standards for WCFs, including specific siting and design criteria meant to minimize the potential for such facilities to negatively impact the scenic, agricultural, open space, and community/aesthetic character of the County's built and natural environment. The WCF ordinance is not meant to pre-empt federal law, and in particular is written to be consistent with the Federal Telecommunications Act of 1996 (FTA). FTA includes restrictions regarding what state and local governments can and cannot do with regard to WCFs (including prohibiting them from regulating WCFs on the basis of the environmental/health effects of radio frequency (RF) emissions). FTA does not, however, generally prohibit state and local governments from otherwise regulating the siting, design, and modification of WCFs. Per FTA, such regulation cannot discriminate among service providers and cannot prohibit provision of wireless service within the County. Current case law is slowly shaping the state and local government regulation parameters.

The County's ordinance would apply throughout the County's coastal zone and is structured to have three basic tiers within which different levels of WCF review and criteria apply. Within particularly sensitive areas of the County (such as between the first public road and the shoreline, in certain residential and agricultural zoning districts, and school grounds), WCFs would be prohibited. Within other sensitive areas of the County (specific residential and other zoning districts), WCFs would be restricted and criteria would be established on how and where they could be constructed in these areas. In all other non-prohibited and non-restricted areas, WCFs would be allowed subject to specific application, siting and design criteria are established. Certain types of WCFs (such as minor facilities, personal television antenna, public safety facilities, etc) would be exempted from the requirements of the proposed IP sections. The ordinance would establish a variance criteria to vary those parts of it that can be proven by

**California Coastal Commission**

August Meeting in Huntington Beach

Staff: D.Carl Approved by:

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an applicant to violate FTA in an individual WCF application.

In general, the proposed WCF ordinance provides clear, well-thought policy direction for the siting of WCFs. The County has honed the ordinance over the past 2½ years through multiple public hearings, and through an advisory group including stakeholders from the wireless service industry and local environmental groups. The proposed WCF clearly addresses the issues associated with siting and designing WCFs in the most sensitive coastal zone areas, particularly the County's rural north and south coasts and the areas seaward of the first public road that could easily be adversely affected by a proliferation of WCF buildings, towers, and antennas.

Staff is mostly supportive of the proposed ordinance, but believes that there are a few areas that need to be clarified so that coastal resources are protected to the maximum extent feasible as directed by LCP Land Use Plan (LUP) policies. Primarily, the changes in this regard are minor clarifications to help tighten the ordinance language and eliminate potential areas of confusion and/or internal inconsistency that could affect the implementation and function of it in the future. More substantive changes include: clearly defining the first public road in terms consistent with the California Code of Regulations; clearly defining what WCF standards apply within the first public road right-of-way; clarifying allowed uses in specific zoning districts; clarifying co-location parameters; including water quality and non-invasive native vegetation requirements for WCFs; including provisions to address changing technologies for the redevelopment of existing WCFs; eliminating the retroactive application of non-certified LCP text to applications received before this ordinance is certified; and ensuring that the WCFs that are exempt from the specifics of the ordinance are still held to the other standards of the LCP applying to the underlying zone district site. Staff has worked closely with County staff on the suggested modifications, and County and Commission staff are generally in agreement on the changes.

With the identified modifications, staff recommends that the Commission find that the proposed LCP amendment is consistent with and adequate to carry out the policies of the LUP. As so modified, staff recommends that the Commission approve the LCP amendment.

Staff note

This proposed LCP amendment was filed on July 7, 2003. Pursuant to Coastal Act Section 30513, the Commission must act on it within 60 days of the day it was filed; 60 days from July 7, 2003 is September 5, 2003. Coastal Act Section 30513 provides that the amendment is deemed approved and certified by the Commission if action is not taken within the applicable time frame. However, Coastal Act Section 30517 allows the Commission to extend, for good cause, the 60-day time limit for a period not to exceed one year. Therefore, if the Commission does not act on this amendment at the August 2003 hearing, then the Commission will need to extend the deadline for Commission action by one-year or have the ordinance be approved and certified as submitted. Thus, in the event the Commission chooses to not take action on this amendment at the August hearing, Staff further recommends that the Commission extend the deadline for Commission action by one year (i.e., to September 5, 2004).



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I. Staff Recommendation – Motions and Resolutions

Staff recommends that the Commission, after public hearing, approve the proposed amendment only if modified. The Commission needs to make 2 motions in order to act on this recommendation.¹

1. Denial of Implementation Plan Major Amendment Number 1-03 Part 1 as Submitted

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the amendment and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (1 of 2). I move that the Commission **reject** Part 1 of Major Amendment Number 1-03 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County.

Resolution to Deny. The Commission hereby **denies** certification of Part 1 of Major Amendment Number 1-03 to the Santa Cruz County Local Coastal Program Implementation Plan as submitted by Santa Cruz County and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation

¹ Note that the motions and resolutions refer to “Part 1 of Major Amendment Number 1-03.” The reason for this is that this amendment request is part 1 of a four part LCP amendment submitted by the County. In other words, LCP amendment number 1-03 is in four parts. The other three parts of the amendment are not a part of this staff report, are not before the Commission at this time, and will be evaluated and brought to the Commission for action in the future.



measures which could substantially lessen any significant adverse effect which the Implementation Plan Amendment may have on the environment.

2. Approval of Implementation Plan Major Amendment Number 1-03 Part 1 if Modified
Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion (2 of 2). I move that the Commission **certify** Part 1 of Major Amendment Number 1-03 to the Santa Cruz County Local Coastal Program Implementation Plan if it is modified as suggested in this staff report.

Resolution to Certify with Suggested Modifications. The Commission hereby **certifies** Part 1 of Major Amendment Number 1-03 to the Santa Cruz County Local Coastal Program Implementation Plan if modified as suggested and adopts the findings set forth in this staff report on the grounds that, as modified, the Implementation Plan amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan amendment if modified as suggested complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment; or (2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.

II. Suggested Modifications

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the County of Santa Cruz accepts each of the suggested modifications within six months of Commission action (i.e., by February 6, 2004), by formal resolution of the Board of Supervisors, the corresponding amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added.

1. **Modify Sections 13.10.660 through 13.10.668.** Modify proposed Implementation Plan Sections 13.10.660 through 13.10.668 as shown in exhibit G. Text in ~~cross-out~~ format denotes text to be deleted and text in underline format denotes text to be added.
2. **Retroactivity.** Specify that Section V of Ordinance 4714 and Section XII of Ordinance 4715 adopted by the County do not apply to applications for development in the coastal zone.
3. **Reference.** All references to "Section 13.10.660 et. seq." in Ordinance 4715 adopted by the County



shall be changed to “Sections 13.10.660 through 13.10.668 inclusive.”

4. **Allowed Uses.** Make “Wireless Communications Facilities, subject to Sections 13.10.660 through 13.10.668 inclusive” a conditional use in the CA and AP zone districts by changing the not an allowed use identifier (i.e., the “--”) in Section 13.10.312 to a level 5 review (i.e., a “5”).

III. Findings and Declarations

The Commission finds and declares as follows:

A. Standard of Review

The standard of review for the proposed modifications to the County’s LUP is consistency with the Coastal Act. The standard of review for proposed modifications to the County’s IP is that they must be consistent with and adequate to carry out the policies of the LUP. In general, Coastal Act policies set broad statewide direction that are generally refined by local government LUP policies giving local guidance as to the kinds, locations, and intensities of coastal development. IP (zoning) standards then typically further refine LUP policies to provide guidance on a parcel by parcel level. Because this is an IP (only) LCP amendment, the standard of review is the certified LCP LUP.

B. Proposed LCP Amendment

1. Federal Telecommunications Reform Act of 1996

The County’s LCP amendment proposes to regulate wireless communication facilities (WCFs) that are also regulated by federal law. The consideration of this amendment is thus bound by federal law as summarized as follows (47 U.S.C. 332(c)):

1. Federal statute prohibits state and local regulations that prohibit or have the effect of prohibiting the provision of personal wireless services.
2. Federal statute prohibits state and local regulation of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions.
3. Any decision to deny a permit for a personal wireless service facility must be in writing and must be supported by substantial evidence.

Under section 307(c)(7)(B) of the Federal Telecommunications Act of 1996 (FTA), state and local governments may not unreasonably discriminate among providers of personal wireless services, and any decision to deny a permit for a personal wireless service facility must be in writing and must be supported by substantial evidence. These provisions are similar to the requirements of California law, including the Coastal Act. FTA also prevents state and local governments from regulating the placement of wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that



such facilities comply with the regulations of the Federal Communications Commission (FCC) concerning such emissions.

The LCP amendment is not meant to pre-empt federal law, and in particular is written to be consistent with the FTA. FTA includes restrictions regarding what state and local governments can and cannot do with regard to WCFs, but it does not, however, generally prohibit state and local governments from otherwise regulating the siting, design, and modification of WCFs. FTA restrictions are written directly into the proposed IP text (see Section 13.10.660(a), (b), and (c) in exhibit B). Current case law is slowly shaping the state and local government regulation parameters.

2. Description of Proposed LCP Amendment

The amendment would add Sections 13.10.660 through 13.10.668 to the County's LCP IP, and would add wireless communications facilities as a conditional use in all zoning districts except for Commercial Agriculture (CA) and Agricultural Preserve (AP) (see clean copy of the proposed amendment sections in exhibit B). The IP text proposed would apply throughout the County's coastal zone and is structured to have three basic layers within which different levels of WCF review and criteria apply. Within particularly sensitive areas of the County (such as between the first public road and the shoreline, in certain residential and agricultural zoning districts, and school grounds), WCFs are prohibited. Within other sensitive areas of the County (specific residential and other zoning districts), WCFs are restricted and criteria are established on how and where they can be constructed in these areas. In all other non-prohibited and non-restricted areas, WCFs are allowed subject to specific application, siting and design criteria are established. Special siting, design, and alternative analysis criteria apply to WCFs proposed within a designated scenic area, and if WCF sites must be considered within the prohibited or restricted zones (because of FTA violation and/or because it meets certain criteria specific to the restricted area).

The County has prepared a map exhibit keyed to the restricted areas identified above (see exhibit D).

3. Effect of Changes Proposed

The LCP does not currently provide specific guidance on the siting and design of WCFs. Rather, the more general LCP requirements for development in the coastal zone currently apply to WCFs, including the requirements of the underlying zone district in which they may be proposed and any policies applicable to site specific issues (e.g., ESHA). These facilities are not currently explicitly identified as allowed uses within the coastal zone zoning districts.

The primary effect of the new LCP sections proposed would be to explicitly allow WCFs as a conditional use in all zone districts except for CA and AP, and to apply specific application and approval standards addressing siting and designs of them. The new sections specifically direct siting of WCFs away from sensitive coastal resource areas, including seaward of the first public road and on commercial agricultural property. Thus, the types of issues generally raised by these facilities will be better understood and should lead to better informed decisions. In addition, a clear LCP preference for avoiding coastal resource areas is established, subject to FTA variance requirements and special criteria. In other words, it will be relatively more difficult to site WCFs seaward of the first public road and in the rural agricultural, scenic,



and open space areas of the County (see map in exhibit D). All WCFs would be designed to minimize impacts.

C. LUP Consistency

In order to approve an Implementation Plan amendment, it must be consistent with and adequate to carry out the Land Use Plan.

A. Applicable Policies

Visual Resources

The County's LCP is extremely protective of coastal zone visual resources, particularly views from public roads, and especially along the shoreline. This is particularly true as it pertains to maintaining the rugged character of the rural north Santa Cruz coast. LUP policies include:

Objective 5.10.a Protection of Visual Resources. To identify, protect, and restore the aesthetic values of visual resources.

Objective 5.10.b New Development in Visual Resource Areas. To ensure that new development is appropriately designed and constructed to minimal to no adverse impact upon identified visual resources.

LUP Policy 5.10.2 Development Within Visual Resource Areas. Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section....

LUP Policy 5.10.3 Protection of Public Vistas. Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations,... inappropriate landscaping and structure design.

LUP Policy 5.10.5 Preserving Agricultural Vistas. Continue to preserve the aesthetic values of agricultural vistas. Encourage development to be consistent with the agricultural character of the community. Structures appurtenant to agricultural uses on agriculturally designated parcels shall be considered to be compatible with the agricultural character of surrounding areas.

LUP Policy 5.10.6 Preserving Ocean Vistas. Where public ocean vistas exists, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.

LUP Policy 5.10.7 Open Beaches and Blufftops. Prohibit the placement of new permanent structures that would be visible from a public beach, except where allowed on existing parcels



of record, or for shoreline protection and for public beach access. Use the following criteria for approved structures: (a) allow infill structures (typically residences on existing lots of record) where compatible with the pattern of existing development. (b) Require shoreline protection and access structures to use natural materials and finishes to blend with the character of the area and integrate with the landform.

LUP Policy 5.10.9 Restoration of Scenic Areas. *Require on-site restoration of visually blighted conditions as a mitigating condition of permit approval for new development. The type and amount of restoration shall be commensurate with the size of the project for which the permit is issued. Provide technical assistance for restoration of blighted areas.*

LUP Policy 5.10.10 Designation of Scenic Roads. *The following roads and highways are valued for their vistas. The public vistas from these roads shall be afforded the highest level of protection. State Highways: Route 1 – from San Mateo County to Monterey County...*

LUP Policy 5.10.11 Development Visible From Rural Scenic Roads. *In the viewsheds of rural scenic roads, require new discretionary development, including development envelopes in proposed land divisions, to be sited out of public view, obscured by natural landforms and/or existing vegetation. Where proposed structures on existing lots are unavoidably visible from scenic roads, identify those visual qualities worthy of protection (See policy 5.10.2) and require the siting, architectural design and landscaping to mitigate the impacts on those visual qualities. (See policy 5.14.10.)*

LUP Policy 5.10.12 Development Visible From Urban Scenic Roads. *In the viewsheds of urban scenic roads, require new discretionary development to improve the visual quality through siting, design, landscaping, and appropriate signage.*

LUP Policy 5.10.23 Transmission Lines and Facilities. *Require transmission line rights-of-way and facilities to be reviewed in accordance with the Zoning ordinance to minimize impacts on significant public vistas; especially in scenic rural areas, and to avoid locations which are on or near sensitive habitat, recreational, or archaeological resources whenever feasible.*

LUP Policy 5.10.24 Utility Service Lines. *Require underground placement of all new utility service lines and extension lines to and within new residential and commercial subdivisions. Require underground placement of all other new or supplementary transmission lines within views from scenic roads where it is technically feasible, unless it can be shown that other alternatives are less environmentally damaging or would have unavoidable adverse impacts on agricultural operations. When underground facilities are installed parallel to existing above ground lines, require the existing lines to be placed underground with the new lines. When above ground facilities are necessary, require that the design of the support towers or poles be compatible with the surroundings and that lines cross roadways at low elevations or curves in the road in accordance with California Public Utility Commission regulations for public utility facilities.*



LUP Objective 5.11 Open Space Preservation. To identify and preserve in open space uses those areas which are not suited to development due to the presence of natural resource values or physical development hazards.

LUP Policy 7.7.1 Coastal Vistas. Encourage pedestrian enjoyment of ocean areas and beaches by the development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches...

Urban/Rural Distinction

The LCP is also structured to encourage rural lands to stay rural, and to direct development to urban areas of the County better able to absorb such development. LUP policies include:

LUP Objective 2.1 Urban/Rural Distinction. To preserve a distinction between urban and rural areas of the County, to encourage new development to locate within urban areas and discourage division of land in rural areas; and to achieve a rate of residential development which can be accommodated by existing public services and their reasonable expansion, while maintaining economic, social, and environmental quality.

Chapter 5 Open Space Protection Goal. To retain the scenic, wooded, open space and rural character of Santa Cruz County; to provide a natural buffer between communities; to prevent development in naturally hazardous areas; and to protect wildlife habitat and other natural resources.

Land Use Priorities

The LCP establishes a hierarchy of priority uses. The LUP states:

LUP Policy 2.22.1 Priority of Uses within the Coastal Zone. Maintain a hierarchy of land use priorities within the Coastal Zone:

First Priority: Agriculture and coastal-dependent industry

Second Priority: Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities.

Third Priority: Private residential, general industrial, and general commercial uses.

LUP Policy 2.22.2 Maintaining Priority Uses. Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.

Agriculture

The LCP is protective of agricultural land. Most of the County's north coast and south county rural coastal zone areas are designated for agriculture in the LUP. LUP policies include:

LUP Objective 5.13 Commercial Agricultural Land. To maintain for exclusive agricultural use those lands identified on the County Agricultural Resources Map as best suited to the



commercial production of food, fiber, and ornamental crops and livestock and to prevent conversion of commercial agricultural land to non-agricultural uses. To recognize that agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands.

LUP 5.13.5 Principal Permitted Uses on Commercial Agricultural (CA) Zoned Land. *Maintain a Commercial Agricultural (CA) Zone District for application to commercial agricultural lands that are intended to be maintained exclusively for long-term commercial agricultural use. Allow principal permitted uses in the CA Zone District to include only agricultural pursuits for the commercial cultivation of plant crops, including food, flower, and fiber crops and raising of animals including grazing and livestock production.*

LUP 5.13.6 Conditional Uses on Commercial Agricultural (CA) Zoned Lands. *All conditional uses shall be subject to standards which specify siting and development criteria; including size, location and density. Allow conditional uses on CA zoned lands based upon the following conditions: (a) The use constitutes the principal agricultural use of the parcel; or (b) The use is ancillary incidental, or accessory to the principal agricultural use of the parcel; or (c) The use consists of an interim public use which does not impair long term agricultural viability; and (d) The use is sited to avoid conflicts with principal agricultural activities in the area; and (e) The use is sited to avoid, where possible, or otherwise minimize the removal of land from agricultural production.*

LUP 5.13.7 Agriculturally Oriented Structures. *Allow only agriculturally oriented structures or dwellings on Commercial Agricultural Land; prohibit non-agricultural residential land use when in conflict with the fundamental objective of preserving agriculture.*

Environmentally Sensitive Habitat Areas

The LCP is very protective of environmentally sensitive habitat areas. LCP wetland and wildlife protection policies include Policies 5.1 et seq (Biological Diversity) and 5.2 et seq (Riparian Corridors and Wetlands). In general, these LCP policies define and protect ESHAs, allowing only a very limited amount of development at or near these areas. Relevant LUP policies include:

LUP Objective 5.1 Biological Diversity. *To maintain the biological diversity of the County through an integrated program of open space acquisition and protection, identification and protection of plant habitat and wildlife corridors and habitats, low-intensity and resource compatible land uses in sensitive habitats and mitigations on projects and resource extraction to reduce impacts on plant and animal life.*

LUP Policy 5.1.2 Definition of Sensitive Habitat. *An area is defined as a sensitive habitat if it meets one or more of the following criteria: (a) Areas of special biological significance as identified by the State Water Resources Control Board. (b) Areas which provide habitat for locally unique biotic species/communities, including coastal scrub, maritime chaparral, native rhododendrons and associated Elkgrass, mapped grasslands in the coastal zone and sand*



parkland; and Special Forests including San Andreas Live Oak Woodlands, Valley Oak, Santa Cruz Cypress, indigenous Ponderosa Pine, indigenous Monterey Pine and ancient forests. (c) Areas adjacent to essential habitats of rare, endangered or threatened species as defined in (e) and (f) below. (d) Areas which provide habitat for Species of Special Concern as listed by the California Department of Fish and Game in the Special Animals list, Natural Diversity Database. (e) Areas which provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act guidelines. (f) Areas which provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society. (g) Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas, cliff nesting areas and marine, wildlife or educational/research reserves. (h) Dune plant habitats. (i) All lakes, wetlands, estuaries, lagoons, streams and rivers. (j) Riparian corridors.

LUP Policy 5.1.3 Environmentally Sensitive Habitats. *Designate the areas described in 5.1.2 (d) through (j) as Environmentally Sensitive Habitats per the California Coastal Act and allow only uses dependent on such resources in these habitats within the Coastal Zone unless other uses are: (a) consistent with sensitive habitat protection policies and serve a specific purpose beneficial to the public; (b) it is determined through environmental review that any adverse impacts on the resource will be completely mitigated and that there is no feasible less-damaging alternative; and (c) legally necessary to allow a reasonable economic use of the land, and there is no feasible less-damaging alternative.*

LUP Policy 5.1.7 Site Design and Use Regulations. *Protect sensitive habitats against any significant disruption or degradation of habitat values in accordance with the Sensitive Habitat Protection ordinance. Utilize the following site design and use regulations on parcels containing these resources, excluding existing agricultural operations: (a) Structures shall be placed as far from the habitat as feasible. (b) Delineate development envelopes to specify location of development in minor land divisions and subdivisions. (c) Require easements, deed restrictions, or equivalent measures to protect that portion of a sensitive habitat on a project parcel which is undisturbed by a proposed development activity or to protect sensitive habitats on adjacent parcels. (d) Prohibit domestic animals where they threaten sensitive habitats. (e) Limit removal of native vegetation to the minimum amount necessary for structures, landscaping, driveways, septic systems and gardens; (f) Prohibit landscaping with invasive or exotic species and encourage the use of characteristic native species.*

LUP Policy 5.1.9 Biotic Assessments. *Within the following areas, require a biotic assessment as part of normal project review to determine whether a full biotic report should be prepared by a qualified biologist: (a) Areas of biotic concern, mapped; (b) sensitive habitats, mapped & unmapped.*

LUP Policy 5.1.12 Habitat Restoration with Development Approval. *Require as a condition of approval, restoration of any area of the subject property which is an identified degraded*



sensitive habitat, with the magnitude of restoration to be commensurate with the scope of the project. ...

LUP Policy 5.1.14 Removal of Invasive Plant Species. *Encourage the removal of invasive species and their replacement with characteristic native plants, except where such invasive species provide significant habitat value and where removal of such species would severely degrade the existing habitat. In such cases, develop long-term plans for gradual conversion to native species providing equal or better habitat values.*

LUP Objective 5.2 Riparian Corridors and Wetlands. *To preserve, protect and restore all riparian corridors and wetlands for the protection of wildlife and aquatic habitat, water quality, erosion control, open space, aesthetic and recreational values and the conveyance and storage of flood waters.*

LUP Policy 5.2.5 Setbacks From Wetlands. *Prohibit development within the 100 foot riparian corridor of all wetlands. Allow exceptions to this setback only where consistent with the Riparian Corridor and Wetlands Protection ordinance, and in all cases, maximize distance between proposed structures and wetlands. Require measures to prevent water quality degradation from adjacent land uses, as outlined in the Water Resources section.*

LUP Policy 5.2.7 Compatible Uses With Riparian Corridors. *Allow compatible uses in and adjacent to riparian corridors that do not impair or degrade the riparian plant and animal systems, or water supply values, such as non-motorized recreation and pedestrian trails, parks, interpretive facilities and fishing facilities. Allow development in these areas only in conjunction with approval of a riparian exception.*

Water Quality

In addition to the above policies that incorporate water quality protection into them, the LCP also more categorically protects water quality, including its affect on ESHA. Relevant LUP policies include:

Objective 5.4 Monterey Bay and Coastal Water Quality. *To improve the water quality of Monterey Bay and other Santa Cruz County coastal waters by supporting and/or requiring the best management practices for the control and treatment of urban run-off and wastewater discharges in order to maintain local, state and national water quality standards, protect County residents from health hazards of water pollution, protect the County's sensitive marine habitats and prevent the degradation of the scenic character of the region.*

Objective 5.7 Maintaining Surface Water Quality. *To protect and enhance surface water quality in the County's streams, coastal lagoons and marshes by establishing best management practices on adjacent land uses.*

LUP Policy 5.4.14 Water Pollution from Urban Runoff. *Review proposed development projects for their potential to contribute to water pollution via increased storm water runoff. Utilize erosion control measures, on-site detention and other appropriate storm water best*



management practices to reduce pollution from urban runoff.

LUP Policy 5.7.1 Impacts from New Development on Water Quality. *Prohibit new development adjacent to marshes, streams and bodies of water if such development would cause adverse impacts on water quality which cannot be fully mitigated.*

LUP Policy 5.7.4 Control Surface Runoff. *New development shall minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control: (a) include curbs and gutters on arterials, collectors and locals consistent with urban street designs; and (b) oil, grease and silt traps for parking lots, land divisions or commercial and industrial development.*

LUP Policy 5.7.5 Protecting Riparian Corridors and Coastal Lagoons. *Require drainage facilities, including curbs and gutters in urban areas, as needed to protect water quality for all new development within 1000 feet of riparian corridors or coastal lagoons.*

LUP Policy 7.23.1 New Development. *...Require runoff levels to be maintained at predevelopment rates for a minimum design storm as determined by Public Works Design Criteria to reduce downstream flood hazards and analyze potential flood overflow problems. Require on-site retention and percolation of increased runoff from new development in Water Supply Watersheds and Primary Groundwater Recharge Areas, and in other areas as feasible.*

LUP Policy 7.23.2 Minimizing Impervious Surfaces. *Require new development to limit coverage of lots by parking areas and other impervious surfaces, in order to minimize the amount of post-development surface runoff.*

LUP Policy 7.23.5 Control Surface Runoff. *Require new development to minimize the discharge of pollutants into surface water drainage by providing the following improvements or similar methods which provide equal or greater runoff control:... (b) construct oil, grease and silt traps from parking lots, land divisions or commercial and industrial development. Condition development project approvals to provide ongoing maintenance of oil, grease and silt traps.*

Cumulative Impacts

The LCP protects against impacts associated with individual projects, as well as the cumulative impact from such projects in relation to current and potentially planned development. The LUP states:

LUP Policy 2.1.4 Siting of New Development. *Locate new residential, commercial or industrial development, within, next to, or in close proximity to existing developed areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on environmental and natural resources, including coastal resources.*

Conclusion

In sum, the County's LUP protects coastal resources, particularly rural, open space and agricultural lands,



and specifically visual resources. The County's rural north and south coast areas, mostly agricultural and rural, are explicitly protected against inappropriate structures and development that would impact agricultural viability and public viewsheds. Overall, these LUP requirements reflect and implement similar fundamental goals of the Coastal Act.

B. Consistency Analysis

In general, the proposed WCF ordinance provides clear, well-thought policy direction for the siting of WCFs. The County has honed the ordinance over the past 2½ years through multiple public hearings, and through an advisory group including stakeholders from the wireless service industry, local environmental groups, and other interested parties. The proposed WCF addresses the issues associated with siting and designing WCFs in the most sensitive coastal zone areas, particularly the County's rural north and south coasts and the areas seaward of the first public road that could easily be adversely affected by a proliferation of WCF buildings, towers, and antennas.

The proposed ordinance sections do, however, include some areas of potential confusion that are problematic and affect the ability of the proposed text to implement the land use plan policies in this regard. These are discussed more specifically below.²

First Public Road

The proposed ordinance sections define a series of areas within which WCFs are prohibited (see pages 8 and 9 of exhibit B). This includes the area between the coastline and the first public road parallel to it. However, the text is not clear as to where the inland extent of this area is measured. Because of this, it is unclear as to what criteria would apply within the first public road. This is critical in the County, particularly in the rural north coast where the first through public road is predominantly Highway One, and a critical public viewshed. Upon notification of this issue, the County indicated that the intent was to have this prohibition area extend to the seaward edge of the right-of-way. According to the County this was partly because the County anticipated that co-located microcell facilities on existing utility poles may be proposed, and may be found appropriate in certain cases, in this right-of-way.

The Commission's regulations interpret the first public road as extending to the inland extent of the right-of-way. In working through this issue with County staff, a balance was struck to ensure that the highly scenic areas (associated in many cases with the first through public road) were not going to absorb inappropriate WCF development inconsistent with the LUP. In sum, modifications are suggested so that the first public road is more clearly defined, is a made a restricted use area within which WCFs are discouraged, and criteria are established directing WCFs to be co-located microcell facilities on the inland side of the right-of-way if they are allowed in the right-of-way. In addition, because of the highly scenic nature of the first public road generally, this area is often considered for utility under-grounding. Such under-grounding is generally encouraged, and any development authorized under the new ordinance sections should not prejudice these efforts in the future. Thus, any WCF allowed in the first public road

² Commission staff have worked closely with County staff on these identified issues, and appropriate changes to address concerns in this respect. Each of the modifications discussed in this finding have been discussed with County staff and Commission staff and County staff are generally in agreement.



(based on the criteria established for it) must agree to future relocation if the owner/operator of the road and/or the utility pole decides to underground utilities in that area.

See page 11 of exhibit G for modifications in this regard.

Exceptions for Prohibited Areas

The proposed ordinance sections define a series of areas within which WCFs are prohibited (see pages 8 and 9 of exhibit B). The ordinance also includes an TCA variance procedure (allowing exceptions if the applicant can prove application of the standard violates the TCA – see also below). Thus, if a TCA variance is granted, a WCF could be located in a prohibited zone. If these areas are going to be used for siting, and consistent with the remainder of the ordinance and the degree of increased potential for impact, it needs to be specified as to what type of facilities are allowed/preferred if LUP consistency is to be achieved. Therefore, similar to the exception procedure established for restricted areas by the proposed text, a similar set of criteria is established for the prohibited areas with a specification that they be co-located (to reduce the potential for adverse impact in these sensitive areas). See page 10 of exhibit G for modifications in this regard.

Exemptions

The types of WCFs exempted from the requirements of the ordinance sections are generally appropriate, including public safety WCFs operated by public safety agencies and minor facilities. However, the language proposed needs additional clarity on criteria (see pages 5, 7 and 8 of exhibit B), including specifying that these are for non-commercial use (as appropriate). In addition, the ordinance could be read to exempt these facilities from other applicable policies of the LCP.³ This can be addressed by expanding the preamble to the exemptions to ensure that it is clear that all other applicable LCP policies still apply to these facilities, and to ensure that the general development standards for WCFs (including protecting visual resources as much as feasible) apply to these facilities as well. Exempted WCFs would still be exempted from the more formal application and design review requirements of the proposed ordinance sections. See page 5, 8, and 9 of exhibit G for modifications in this regard.

Maximum Heights

The proposed ordinance sections do not establish maximum heights for WCF facilities and/or towers. Rather, the ordinance is structured to minimize impacts, including through the use of minimizing heights to the degree necessary to accomplish this. The ordinance states that “all towers shall be designed to be the shortest height possible so as to minimize visual impact” (see page 21 of exhibit B). In addition, all standards of the underlying districts continue to apply. That said, the underlying district regulations are not directive towards WCF facilities and towers. They are instead focused on the types of structures generally considered in those districts (e.g., residential structures, agricultural structures, etc.).

Section 13.10.510(d) lists a series of height exceptions allowed in the zone districts, including specifying that “utility and commercial poles and towers may not be subject to the height limits prescribed in the

³ See for example, the proposed text of Section 13.10.661 that could be read to imply that these exempted facilities do not have to comply with the LCP (page 8 of exhibit B).



district regulations” (see exhibit F). It could be argued, therefore, that there is no absolute height associated with commercial WCFs.

In terms of minor facilities exempted from the ordinance, the exemption text indicates that they cannot exceed the height limit for “non-commercial antennas” in the zoning district. Section 13.10.510(d) indicates that non-commercial antennas can be erected to a height not more than 25 feet above the height limit allowed in the zoning district, and further specifies that this height can be exceeded by 25 feet with a level 4 (administrative, public notice required) approval. That said, it isn’t clear to what height limit this section refers (since, like commercial facilities, the zone district texts themselves do not explicitly indicate what the height limit is for this type of project).

Thus, there is a certain lack of clarity as regards maximum allowed height for both the minor facilities (that need only be consistent with the underlying zone districts in this regard), and all other WCFs. Given the underlying LCP policies directed towards avoiding and otherwise minimizing impacts, like visual impacts, the lack of an absolute limit in this regard is not critical. It is expected that impacts due to height for non-exempted WCFs will be sufficiently addressed by the requirements of the proposed ordinance, including the requirement that towers be as short as possible, and the remainder of the LCP. Any such structures will likely be kept to levels consistent with the aesthetics of surrounding land and the built environment, and avoid visual impacts. For exempt facilities, by making it clear that the general parameters of the proposed ordinance sections (for siting and design preference) apply, and that the remainder of the LCP policies also apply (see suggested modifications on page 8 of exhibit G), these facilities too should not result in undue impact because of the lack of clarity regarding maximum heights.

That said, the lack of an absolute height maximum in the zoning districts is an LCP issue that should be addressed in the future.⁴ Any such LCP amendment should clearly specify height limits in each zone district for all structures (in addition to those generally expected, like SFDs in a residential zone), and should clarify the relationship of Section 13.10.510(d) to them. The Commission’s rebuttable presumption is that height limits for structures associated with conditional uses in this respect should not exceed the existing maximum height limit established for other conditional uses in those zone districts (e.g., the height limit identified for conditional use residential structures in the CA Commercial agriculture zone district is 28 feet), and should be subject to reasonable upper limits for the types of structural elements identified in Section 13.10.510(d). In sum, the LCP should be read broadly to protect against coastal resource impacts in these areas that might arise due to height of structures.

Allowed Uses

The proposed ordinance sections indicate that WCFs will be prohibited in certain zoning districts (R-1, RM, RB, CA, and MH). The complementary ordinance adopted by the County makes WCFs conditional uses (i.e., subject to a level 5 approval) in each zone district except for CA and AP, where they would not be allowed uses (see exhibit C). There are 2 problems with this.

First, if the intent was to make WCFs not allowed uses in the prohibited zone districts, then the wrong

⁴ County staff indicates that this has been identified as a future planning work item.



zone districts were identified in the companion ordinance. That is, R-1, RM, RB, CA, and MH would be the zone districts in which they are not allowed uses, and not just CA and AP.

Second, the TCA variance procedure (see also below) could potentially allow for WCFs in any zone district, including the prohibited districts. However, the TCA variance procedure doesn't affect the allowed uses in the zoning districts, only proposed sections 13.10.660 through 13.10.668. Thus, a TCA variance could allow for siting in a CA district, for example, but WCFs would not be an allowed use in that district. This leads to a conflict within the IP. If the IP were changed such that WCFs were not allowed uses in each of the prohibited zone districts, then conflict is again possible.

Third, exempt WCFs would still be subject to the zone district use requirements, and thus not allowed uses in the CA and AP districts (as proposed) and not allowed in the other prohibited districts (if changed to match the prohibition zones).

Therefore, in order to resolve this inconsistency, and consistent with the intent of the proposed text, a modification is suggested to make WCFs conditional uses in all zone districts. This addresses the fact that they may be allowed, subject to a TCA variance, and the use codes should reflect this. It does not, however, undo the protection offered the prohibited zoning districts since the prohibitions would still apply (unless they represented a violation of the TCA). By making them a conditional use (i.e., a level 5 review in Santa Cruz County LCP parlance), actions taken on associated coastal development permits are also appealable to the Commission. See suggested modification 4.

Other Resource Areas

The ordinance purpose (see page 1 of exhibit B) and required findings section (see pages 25 and 26 of exhibit B) focus on visual resources, and visual and ESHA resources respectively. To be consistent with the LUP, other protected resource types within the County should also to be identified so it is not assumed that the ordinance doesn't address those types of coastal zone resource concerns. For example, consistent with the LUP, other purposes of the ordinance are to likewise address preservation of agricultural and open space land, and the community and aesthetic character of the built and natural environment; this is particularly the case relative to the rural north and south County areas. Modifications are suggested to elaborate on the purpose and required findings, including specifying that such applications be found consistent with all applicable requirements of the LCP (see pages 1, 31, and 32 of exhibit G).

Definitions

The proposed ordinance sections rely in part on "technical feasibility" in evaluating siting and design of WCFs. However, "technically feasible" is not currently defined. A modification is included to provide a definition for this term as follows: "capable of being accomplished based on existing technology compatible with a wireless service provider's existing network." See page 7 of exhibit G. The burden of proof of any infeasibility should be borne by an applicant, and a modification is suggested to make this the case (see page 22 of exhibit G).



The proposed ordinance sections rely in part on “non-major modification and maintenance activities,” including exempting same from ordinance requirements. Although “major modification” is defined,⁵ “non-major modification” is not. A definition is suggested to ensure that the definition of “non-major” is clear, and so that there aren’t any questions in the future as to what qualifies as non-major. See page 6 of exhibit G.

The proposed ordinance sections refer to a “wireless communications facilities GIS map” (see page 12 of exhibit B). However, while the definition of this map is implied, it is not clear. Since applicants will be required to submit data to be included in this map, a definition is suggested to ensure that it is clear that this is “map maintained by the County in Geographic Information System (GIS) format that includes location and other identifying information about wireless communication facilities in the County” (see page 8 of exhibit G).

Application Requirements

Several of the WCF application requirements need detail to ensure that adequate information with which to render decisions consistent with the LUP (and the LCP) is submitted, that this information is clear, and that it is organized in a manner most useful to decision making bodies for their review. Several modifications are suggested in this regard in issue areas including, but not limited to, co-location efforts made, alternatives analysis, changes in technology, potential for modifications to existing facilities to reduce impacts, vegetation screening, landscaping plans, drainage plans, reduced plans, photo simulations, existing and finished grades, height measurements, and surrounding properties (see pages 13 through 22 of exhibit G). The changes suggested are generally minor clarifications, reorganizing and making more specific application requirements in this regard.

General Standards for Wireless Facilities

Several of the WCF general development standards (in proposed Section 13.10.663) need to be fleshed out further consistent with the LUP protection afforded these resources, particularly visual resources. Several modifications are suggested in this regard to: indicate that facilities are to be integrated to the maximum extent feasible with the existing site, and that they are to avoid or minimize to the maximum extent feasible visibility of WCFs within significant public viewsheds; provide clarifying detail on camouflaging measures necessary; specify that in some cases stealth-type structures that mimic structures typically found in the built environment where the facility is located may be appropriate (e.g., small scale water towers, barns, and other typical farm-related structures on or near agricultural areas); specify landscape and vegetation plan parameters (including removal of non-native invasive plants and replacement with non-invasive native species appropriate to the site area; ensuring that screening is complete upon facility completion; ensuring that all required camouflaging (including vegetation and stealth features) are maintained for the life of the WCF; providing parameters for future co-location; providing parameters for future modifications to existing facilities to reduce resource impacts; specifying that approved plans, including all required maintenance, are provided for each approval; and encouraging wireless providers to evaluate their facilities on an ongoing basis to ensure consistency with the LCP, and

⁵ In terms of power output and visual impact specifically, and not other things. Although limited, these two areas are likely sufficient to capture the intent of what a “major” modification should be considered (see pages 4 and 5 of exhibit B).



further encouraging providers to individually and collectively pursue modifications as appropriate to reduce resource impacts, particularly viewshed impacts, in the County's coastal zone (see pages 22 through 29 of exhibit G).

Water Quality and Drainage

The proposed ordinance sections generally require drainage and erosion control plans with WCF applications. The plan requirements are not, however, clearly spelled-out. So as to ensure consistency with the LUP in this regard (as seen in the policies listed above), additional detail consistent with the type of water quality measures commonly required by the Commission is necessary. Thus, a modification is suggested to require both construction and permanent erosion control and drainage plans. See page 17 of exhibit G for modifications in this regard.

Use of the term "Variance"

As discussed above, the proposed ordinance text includes an TCA variance procedure (see page 27 of exhibit B). The TCA variance allows exceptions if the applicant can prove that the application of a particular standard or requirement of the proposed ordinance sections violates the TCA. The ordinance text calls this a "variance." Variance, though, as that term is commonly understood in a land use context (and in this LCP) is dependent on, and refers to, site conditions and constraints. This is a very different concept than a TCA exemption, and includes a series of required variance findings. In order to be as clear as possible, and to ensure that the TCA variance is not argued to be the more commonly understood variance found in the existing LCP, and thus require that variance findings be made for a TCA variance, this term needs to be changed. Because it is actually an exception to the WCF ordinance sections, it is more aptly described as an "exception." See pages 32 and 33 of exhibit G for modifications in this regard.

13.10.660 et seq

The proposed ordinance sections refer to the proposed text as Sections 13.10.660 et. seq.. The term "et. seq." is commonly used when it refers to a whole subset of nested sections or policies (e.g., when referring to a whole chapter of a zoning code). In this case, the proposed text is not nested, and although it is implied that it refers to 13.10.660 through 13.10.669, it is not clear that that is the case. It also does not include a proposed section 13.10.669, and this interpretation could imply that that section applies when and if it is developed in the future, whatever 13.10.669 may be about. To err on the very conservative side, and to be as specific as possible as to which ordinance sections are involved, this term needs to be replaced with "13.10.660 through 13.10.668 inclusive" where it exists in the proposed text (see exhibit G for this modification throughout, and see suggested modification 3).

Retroactivity of Interim Ordinance within the Coastal Zone

In adopting the proposed LCP text, the County also adopted a standard specifying that a previous interim wireless ordinance adopted by the County would apply to applications deemed complete by April 29, 2003 (see page 27 of exhibit B and page 3 of exhibit C). However, the interim ordinance was not submitted and was thus not reviewed nor certified by the Commission as part of the LCP. It cannot be made to apply retroactively to applications deemed complete as of a specific date. The Commission's practice has been that the certified standards in effect at the time that a decision is rendered are the



standards that are applied within the context of that decision,. The same would be the case for any applications received by the County for which actions have not yet been taken. Therefore, a modification is necessary to specify that the retroactivity clause does not apply to applications for development in the coastal zone (see suggested modification 2).⁶

Public Agency Disclosure

The proposed ordinance text (see page 11 of exhibit B) requires public safety agencies to disclose locations of there facilities unless exempted by the Board of Supervisors. This section is in proposed section 13.10.661. However, public safety agencies are exempted from complying with 13.10.661. Therefore, this requirement has been moved to the 13.10.660(e) text on exemptions (see page 9 of exhibit G).

Clarifications/Other

In addition to those issues detailed above, there are multiple instances where the language of the proposed text needs to be reordered, made to be consistent with other parts of the ordinance, and/or elaborated upon consistent with LUP resource policies (e.g., general standards for protecting visual character), to ensure its clear implementation consistent with the LUP policies it implements. Suggested modifications to this effect are shown throughout the proposed text. See exhibit G (throughout).

Conclusion

The Commission must determine whether the zoning code changes proposed are consistent with and adequate to carry out the LUP. In general, the IP text proposed is consistent with the LUP in this sense. There are, however, areas in which there are inconsistencies and/or other issues that would affect the proposed text's ability to carry out the LUP policies ensure that coastal resources are protected as directed by the LUP. Fortunately, there are modifications that can be made to address the identified issues. These modifications have been discussed with the County and they area generally supportive of them.

In conclusion, if so modified in all of the ways outlined here according to the cited modification texts, then the IP as amended by the proposed amendment, and as further modified as suggested above and in the cited modification texts, is approved as being consistent with and adequate to carry out the certified LUP as amended.

D. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible

⁶ The County indicates that there is one such application pending at the County, and that a decision is likely to be rendered in the near future.



alternative be chosen as the alternative to undertake.

The County in this case exempted the proposed amendment under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate suggested modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Coastal Act findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives nor feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment, as modified, would have on the environment within the meaning of CEQA. Thus, if so modified, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF SANTA CRUZ ESTABLISHING
ZONING REGULATIONS REGARDING
WIRELESS COMMUNICATION FACILITIES**

SECTION I

Section 13.10.659 of the Santa Cruz County Code is hereby repealed effective the 31st day after the date of final approval of this Ordinance as to those areas outside the Coastal Zone. Section 13.10.659 of the Santa Cruz County Code is hereby repealed effective upon certification of this Ordinance by the California Coastal Commission as to those areas within the Coastal Zone.

SECTION II

The Santa Cruz County Code is hereby amended by adding Section 13.10.660 *et. seq.* to read as follows:

**13.10.660 REGULATIONS FOR THE SITING, DESIGN, AND CONSTRUCTION OF
WIRELESS COMMUNICATION FACILITIES**

(a) PURPOSE:

The purpose of Sections 13.10.660 ~~*et. seq.*~~ through 13.10.668 inclusive is to establish regulations, standards and circumstances for the siting, design, construction, major modification, and operation of wireless communication facilities in the unincorporated area of Santa Cruz County. It is also the purpose of Sections 13.10.660 through 13.10.668 inclusive ~~*et. seq.*~~ to assure, by the regulation of siting of wireless communications facilities, that the integrity and nature of residential, rural, commercial, and industrial areas are protected from the indiscriminate proliferation of wireless communication facilities, while complying with the Federal Telecommunication Act of 1996, General Order 159A of the Public Utilities Commission of the State of California and the policies of Santa Cruz County. It is also the purpose of Sections 13.10.660 through 13.10.668 inclusive ~~*et. seq.*~~ to locate and design wireless communication towers/facilities so as to minimize negative impacts, such as, but not limited to, visual impacts, agricultural and open space land resource impacts, impacts to the community and aesthetic character of the built and natural environment, attractive nuisance, noise and falling objects, and the general safety, welfare and quality of life of the community. It is also the purpose of Sections 13.10.660 through 13.10.668 inclusive ~~*et. seq.*~~ to provide clear guidance to wireless communication service providers regarding the siting of and design of wireless communication facilities.

(b) FINDINGS:

- (1) The proliferation of antennas, towers, ~~and or~~ satellite dishes, and other wireless communication facility structures could create significant, adverse visual impacts, therefore, there is a need to regulate the siting, design, and construction of wireless communication facilities to ensure that the appearance and integrity of the community is not marred by ~~the cluttering of~~ unsightly commercial facilities, particularly in residential, historically significant, scenic coastal areas, and other environmentally sensitive areas.
- (2) General Order 159A of the Public Utilities Commission (PUC) of the State of California acknowledges that local citizens and local government are often in a better position than the PUC to measure local impact and to identify alternative sites. Accordingly, the PUC will generally defer to local governments to regulate the location and design of cell sites, wireless communication facilities and Mobile Telephone Switching Offices (MTSOs) including (a) the issuance of land use approvals; (b) acting as Lead Agency for purposes of satisfying the California Environmental Quality Act (CEQA) and, (c) the satisfaction of noticing procedures for both land use and CEQA procedures.
- (3) While the licensing of wireless communication facilities is under the control of the Federal Communication Commission (FCC) and Public Utilities Commission (PUC) of the State of California, local government must address public health, safety, welfare, zoning, and environmental concerns where not preempted by federal statute or regulation.
- (4) In order to protect the public health, safety and the environment, it is in the public interest for local government to establish rules and regulations addressing certain land use aspects relating to the construction, design, siting, major modification, and operation of wireless communication facilities and their compatibility with surrounding land uses.
- (5) Commercial wireless communication facilities are commercial uses and as such are generally incompatible with the character of residential zones in the County and, therefore, should not be located on residentially zoned parcels unless it can be proven that there are no alternative nonresidential sites from which can be provided the coverage needed to eliminate or substantially reduce significant gaps in the applicant carrier's coverage network.

(c) **APPLICABILITY:**

Facilities-Activities and development regulated by this ordinance include the siting, design, construction, major modification, and operation of all wireless communication facilities, including Federal Communication Commission (FCC) regulated dish antennas, antennas used for Multi-channel, Multi-point Distribution Services (MMDS) or "Wireless Cable" and personal wireless service facilities (e.g., cellular phone services, PCS - personal communication services, wireless paging services, wireless internet services, etc.). The regulations in this ordinance are intended to be consistent with state and federal law, particularly the Federal Telecommunications Act of 1996, in that they are not intended to: (1) be used to unreasonably discriminate among providers of functionally equivalent services; ~~or~~ (2) have the effect of prohibiting personal wireless services within Santa Cruz County; or (3) have the effect of prohibiting the siting of wireless communication facilities on the basis of the environmental/health effects of radio

frequency emissions, to the extent that the regulated services and facilities comply with the regulations of the Federal Communications Commission concerning such emissions.

(d) DEFINITIONS:

- (1) Antennas - Any system of wires, poles, rods, reflecting discs, dishes, flat panels, or similar devices, including “whip antennas”, attached to a telecommunications tower, mast or other structure, which in combination with the radio-frequency radiation generating equipment associated with a base station are used for the transmission or reception of electromagnetic waves.
- (2) Available Space – The space on a tower or structure to which antennas of a telecommunications provider are both structurally and electromagnetically able to be attached.
- (3) Base Station – The primary sending and receiving site in a wireless telecommunications network, including all radio-frequency generating equipment connected to antennas. More than one base station and/or more than one variety of telecommunications providers can be located on a single tower or structure.
- (4) Cellular Service - A wireless telecommunications service that permits customers to use mobile telephones and other communication devices to connect, via low-power radio transmitter sites, either to the public-switched telephone network or to other fixed or mobile communication devices.
- (5) CEQA- California Environmental Quality Act.
- (6) Channel – The segment of the radiation spectrum from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.
- (7) Co-location or Co-located Facility – When more than one wireless service providers share a single wireless communication facility. A co-located facility can be comprised of a single tower, mast/pole or building structure that supports two or more antennas, dishes, or similar wireless communication devices, that are separately owned or used by more than one public or private entity. Co-location can consist of additions or extensions made to existing towers so as to provide enough space for more than one user, or it can involve the construction of a new replacement tower with more antenna space that supplants an older tower with less capacity. Placing new wireless communication facilities/antennas upon existing or new P.G.&E. or other utility towers or poles (e.g., “micro-cell” sites) is also considered co-location.
- (8) Communication Equipment Shelter – A structure located at a base station designed principally to enclose equipment used in connection with telecommunication transmissions.

- (9) dBm – Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.
- (10) Dish Antenna - Any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia-shaped and is used to transmit and/or receive electromagnetic signals.
- (11) Equipment Building, Shelter or Cabinet - A cabinet or building used to house equipment used by wireless communication providers at a facility.
- (12) FAA - Federal Aviation Administration
- (13) Facility Site – A property, or any part thereof, which is owned or leased by one or more ~~personal~~ wireless service providers and upon which one or more ~~personal wireless service~~ wireless communication facility(s) and required landscaping are located.
- (14) FCC - Federal Communications Commission, the federal government agency responsible for regulating telecommunications in the United States.
- (15) GHz – Gigahertz – One billion hertz.
- (16) Ground-Mounted Wireless Communication Facility - Any antenna with its base placed directly on the ground, or that is attached to a mast or pipe, with an overall height of not exceeding sixteen (16) feet from the ground to the top of the antenna.
- (17) Hertz – One hertz is a unit of measurement of an electric or magnetic field which reverses its polarity at a frequency of once per second (i.e., one cycle or wavelength per second).
- (18) Least Visually Obtrusive – with regard to wireless communication facilities, this shall refer to technically feasible facility site and/or design alternatives that render the facility the most visually inconspicuous relative to other technically feasible sites and/or designs. It does not mean that the facility must be completely hidden, but it may require screening or other camouflaging so that the facility is not immediately recognizable as a wireless communication facility from adjacent properties and roads used by the public.
- (19) Macrocell Site – A low power radio transceiver (i.e., transmits and receives signals) facility (up to 100 watts per radio transmitter) that is comprised of an unmanned equipment shelter (above or below ground) approximately 300 square feet per licensed provider, omni-directional whip, panel or microwave dish antennas mounted on a support structure (e.g., monopole, lattice tower) or building. A macrocell site typically includes 60 radio transmitters.
- (20) Major Modification to Power Output – Any of the following resulting in an increase in the wireless communication facility's power output and/or increase in the intensity or change in the directionality of NIER propagation patterns: increase or intensification, or proposed increase or intensification, in power output, or in size or number of antennas, or change in antenna type or model, or repositioning of antenna(s), or change in number of channels per

antenna above the maximum number previously approved by the County of Santa Cruz, including changes to any/all RF-generating equipment/componentry that are attached to antennas (e.g., conversion of wireless communication to wireless internet that requires continuous transmitting at full power), ~~resulting in an increase in the wireless communication facility's power output and/or increase in the intensity or change in the directionality of NIER propagation patterns.~~

- (21) Major Modification to Visual Impact – Any increase or intensification, or proposed increase or intensification, in dimensions of an existing and/or permitted wireless communications facility (including, but not limited to, its telecommunications tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment); ~~resulting in an increase of the visual impact of said wireless communications facility.~~
- (22) MHz – Megahertz – One million hertz.
- (23) Microcell Site – A small ~~low power~~ radio transceiver facility ~~(10 watts per radio transmitter)~~ comprised of an unmanned equipment cabinet with a total volume of one hundred (100) cubic feet or less that is either under or aboveground, and one omnidirectional whip antenna with a maximum length of five feet, or up to three small (approximately 1'x 2' or 1'x 4') directional panel antennas, mounted on a single pole, an existing conventional utility pole, or some other similar support structure.
- (24) “Minor Antenna” or “Minor Wireless Communication Facility” - means any of the following:
 - (i) A ground- or building-mounted receive-only radio or television antenna that is: ten (10) feet or less tall (including mast or pipe), and (a) six (6) inches or less in diameter or width; and (b) ten (10) feet or less in height as measured from existing grade (including mast or pipe) or, ~~and~~, for building mounted antennas, not exceeding the height limit for non-commercial antennas in the zoning district;
 - (ii) A ground- or building-mounted citizens band radio antenna that is: ten (10) feet or less tall (including mast or pipe), and (a) six (6) inches or less in diameter or width; and (b) ten (10) feet or less in height as measured from existing grade (including mast or pipe) or, for building mounted antennas, not exceeding the height limit for non-commercial antennas in the zoning district;
 - (iii) A ground- or building-mounted satellite receiving dish that: (a) is not more than one (1) meter in diameter for a residential zoned parcel, and or is not more than two (2) meters in diameter for a commercial or industrial zoned parcel; and (b) does not exceed the height limit for non-commercial antennas in the zoning district; or
 - (iv) A ground-, building-, or tower-mounted antenna operated on a non-commercial basis by a federally licensed amateur radio operator as part of the Amateur Radio Service, the height of which (including tower or mast) does not exceed the height limit for non-commercial antennas in the zoning district.

- (25) Monitoring – The measurement, by the use of instruments in the field, of radio-frequency/non-ionizing radiation exposure at a site as a whole, or from individual wireless communication facilities/towers/antennas/repeaters.
- (26) Monitoring Protocol – An industry accepted radio-frequency (RF) radiation measurement protocol used to determine compliance with FCC RF radiation exposure standards, in accordance with the National Council on Radiation Protection and Measurements Reports 86 and 119 and consistent with the RF radiation modeling specifications of OET Bulletin 65 (or any superceding reports/standards), which is to be used to measure the emissions and determine radio-frequency radiation exposure levels from existing and new telecommunications facilities. RF radiation exposure measurements are to be taken at various locations, including those from which public RF exposure levels are expected to be the highest
- (27) MMDS – Multi-channel, Multi-point Distribution Services (also known as “wireless cable”).
- (28) MTSOs - Mobile Telephone Switching Offices.
- (29) Monopole - A single pole-structure erected on the ground to support one or more wireless communication antennas ~~and connecting appurtenances~~.
- (30) Non-Ionizing Electromagnetic Radiation (NIER) – Radiation from the portion of the electromagnetic spectrum with frequencies of approximately 1 million GHz and below, including all frequencies below the ultraviolet range, such as visible light, infrared radiation, microwave radiation, and radio frequency radiation.
- (31) Non-Major Modification or Maintenance Activity – A modification that is not a major modification to power output and is not a major modification to visual impact, or a maintenance activity that does not result in a major modification to power output or a major modification to visual impact.
- (32) PCS - Personal Communications Services - Digital wireless communications technology such as portable phones, pagers, faxes and computers. Also known as Personal Communications Network (PCN).
- (33) PUC or CPUC - California Public Utilities Commission.
- (34) Personal Wireless Services – Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communication services, specialized mobile radio services, and paging services.
- (35) Radio-Frequency (RF) Radiation – Radiation from the portion of the electromagnetic spectrum with frequencies below the infrared range (approximately 100 GHz and below), including microwaves, television VHF and UHF signals, radio signals, and low to ultra low frequencies.

- (365) Repeater – A small receiver/relay transmitter of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.
- (376) Stealth Technology/Techniques – Camouflaging methods applied to wireless communication towers, antennas and/or other facilities, which render them visually inconspicuous.
- (387) Significant Gap – A gap in the service provider’s (applicant carrier’s) own personal wireless services network within the County of Santa Cruz, as defined in Federal case law interpretations of the Federal Telecommunications Act of 1996, including *Sprint Spectrum v. Willoth* (1999) 176 F.3d 630 and *Cellular Telephone Company v. Zoning Board of Adjustment of the Borough of Ho-Ho-Kus* (1999) 197 F.3d 64.
- (398) Structurally Able – The determination that a tower or structure is capable of carrying the load imposed by the new antennas under all reasonably predictable conditions as determined by professional structure engineering analysis.
- (3940) Structure-Mounted Wireless Communication Facility - Any immobile antenna (including panels and directional antennas) attached to a structure, such as a building façade or a water tower, or mounted upon a roof.
- (41) Technically Feasible: Capable of being accomplished based on existing technology compatible with an applicant’s existing network.
- (429) Telecommunication Tower (tower) - A mast, pole, monopole, guyed tower, lattice tower, free-standing tower, or other structure designed and primarily used to support antennas.
- (431) Viable – Primarily in reference to the Alternatives Analysis, an alternative site for which there is a property owner/manager interested in renting, leasing, selling, or otherwise making available, space for one or more wireless communication facilities upon said site on reasonable terms commensurate with the market in Santa Cruz County.
- (442) Visual Impact – An adverse effect on the visual and/or aesthetic environment. This may derive from blocking of a view, or introduction of elements that are incompatible with the scale, texture, form or color of the existing natural or human-made landscape, including the existing community character of the neighborhood.
- (453) Wireless Communication (or “telecommunications”) Facility – A facility, including all associated equipment, that supports the transmission and/or receipt of electromagnetic/radio signals. Wireless communication facilities include cellular radio-telephone service facilities; personal communications service facilities (including wireless internet); specialized mobile radio service facilities and commercial paging service facilities. Components of these types of facilities can include, but are not limited to, the following: antennas, repeaters, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or

similar structures supporting said equipment, equipment buildings, parking areas, and other accessory development.

(46) Wireless Communication Facilities GIS Map – A map maintained by the County in Geographic Information System (GIS) format that includes location and other identifying information about wireless communication facilities in the County.

(e) EXEMPTIONS:

The following are types of wireless communications facilities that are exempt from the specific provisions of Sections 13.10.660-661, 13.10.662, 13.10.663(a)(9), 13.10.663(a)(10), 13.10.663(b), 13.10.664, 13.10.665, 13.10.666, and 13.10.667 et. seq., and may be allowed in any zoning district. All such exempt wireless communications facilities shall comply with all other applicable goals, objectives, policies, and requirements of the General Plan/Local Coastal Program (including applicable regulations and development standards for the zoning district in which they are located), and shall be sited and designed so as to minimize any negative impacts to visual resources and the character of the built and natural environment. Where appropriate to the type of exempt facility (e.g., public safety wireless communication facilities that would not be exempt if they weren't installed and operated by authorized public safety agencies and used solely for public safety purposes), co-location, stealth technologies, and other methods to reduce any negative visual impacts are encouraged (such as under-grounding supporting utilities and screening with non-invasive native vegetation appropriate to the location).

- (1) A ground- or building-mounted citizens band or two-way radio antenna including any mast that is operated on a non-commercial basis.
- (2) A ground-, building- or tower-mounted antenna operated on a non-commercial basis by a federally licensed amateur radio operator as part of the Amateur or Business Radio Service.
- (3) A ground- or building-mounted receive-only radio or television antenna which does not exceed the height requirements of the zoning district, ~~or and which, for a~~ television dish antenna, ~~which~~ does not exceed three (3) feet in diameter if located on residential property within the exclusive use or control of the antenna user.
- (4) A television dish antenna that is no more than six (6) feet in diameter and is located in any area where commercial or industrial uses are allowed by the land use designation.
- (5) Temporary mobile wireless services, including mobile wireless communication facilities and services providing public information coverage of news events, of less than two-weeks duration. Any mobile wireless service facility intended to operate in any given location for more than two weeks is subject to the provisions of Sections 13.10.660 through 13.10.668 inclusive. et. seq.
- (6) Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar devices.

- (7) Wireless communication facilities and/or components of such facilities to be used solely for public safety purposes, installed and operated by authorized public safety agencies (e.g., County 911 Emergency Services, police, sheriff, and/or fire departments, first responder medical services, hospitals, etc.), ~~are exempt from the provisions of this ordinance.~~ Unless otherwise prohibited by law or exempted by action of the Board of Supervisors, public safety agencies shall be required to provide a map of facility locations for inclusion in the County's Wireless Communication Facilities GIS map.
- (8) Any "minor" antenna or facility described under Section 13.10.660(d)(24)~~Subdivision (d), part (27).~~
- (9) Any "non-major" modification or maintenance activities, as defined by Section 13.10.660(d)(31), carried out as part of the routine operation of existing permitted wireless communication facilities.
- (10) Small scale, low powered, short-range, hidden or visually inconspicuous, wireless internet transmitter/receivers (e.g., "Wi-Fi hotspots").

13.10.661 GENERAL REQUIREMENTS FOR WIRELESS COMMUNICATIONS FACILITIES:

All wireless communications facilities, ~~except for exempt facilities described in Section 13.10.660(e),~~ shall comply with all applicable goals, objectives and policies of the General Plan/Local Coastal Program, area plans, zoning regulations and development standards; are subject to Level V review (Zoning Administrator public hearing pursuant to County Code Chapter 18.10); are subject to the California Environmental Quality Act (CEQA); and shall comply with the following requirements:

- (a) Required Permits. All new wireless communication facilities shall be subject to a Commercial Development Permit, and also a Coastal Development Permit if in the Coastal Zone. Additionally, a building permit will be required for construction of new wireless communication facilities, ~~including co-locations and exempt facilities described in Section 13.10.660(e).~~
- (b) Prohibited Areas:
 - (1) Prohibited Zoning Districts. Wireless communication facilities are prohibited in the following zoning districts, unless a Telecommunications Act Exception is approved subject only pursuant to the variance procedure described in Section 13.10.668-(a) below:
 - Single-Family Residential (R-1),
 - Multi-Family Residential (RM),
 - Single-Family Ocean Beach Residential (RB),
 - Commercial Agricultureal (CA),

and the Combining Zone overlays for:

- Mobile Home Parks (MH)
- (2) Prohibited Coastal Areas. Wireless communication facilities are prohibited in areas that lie between the ~~coastline-sea~~ and the edge of the seaward side of the right-of-way of the first through public road parallel to the ~~coastline-sea~~, unless a Telecommunications Act Exception is approved pursuant to ~~subject only to the variance procedure described in~~ Section 13.10.668(a) ~~below~~.
 - (3) Prohibited School Grounds. Wireless communication facilities are prohibited on all public and private K-12 school sites, unless a Telecommunications Act Exception is approved pursuant to ~~subject only to the variance procedure described in~~ Section 13.10.668(a) ~~below~~.
 - (4) Exceptions to Prohibited Areas Prohibition. If a Telecommunications Act Exception is approved pursuant to Section 13.10.668(a) that allows for siting a wireless communications facility within any of the above-listed prohibited areas, then such facility, in addition to complying with the remainder of Sections 13.10.660 through 13.10.668 inclusive, shall be co-located. Applicants proposing new wireless communication facilities in any of the above-listed prohibited areas must submit as part of their application an Alternatives Analysis, as described in Section 13.10.662(c) below. Non-collocated wireless communication facilities may be sited in the prohibited areas listed above only in situations where the applicant can prove that:
 - (i) The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network; and
 - (ii) There are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites and/or facility types and/or designs) outside the prohibited areas identified in Section 13.10.661(b) that could eliminate or substantially reduce said significant gap(s).
- (c) Restricted Areas:
- (1) Restricted Zoning Districts. Non-collocated wireless communication facilities are discouraged in the following zoning districts, subject to the exceptions described in Section 13.10.661(c)(~~23~~) and/or unless a Telecommunications Act Exception is approved pursuant to ~~the variance procedure described in~~ Section 13.10.668(a):
 - Residential Agricultural ale (RA),
 - Rural Residential (RR),
 - Special Use (SU) with a Residential General Plan designation,

and the Combining Zone overlays for:

 - Historic Landmarks (L), and

- Salamander Protection areas (SP).
- (2) Restricted Coastal Right-of-Way Area. Wireless communications facilities are discouraged in the right-of-way of the first through public road parallel to the sea, subject to the exceptions described in Section 13.10.661(c)(3). If a wireless communications facility is allowed within said right-of-way pursuant to Section 13.10.661(c)(3), then the wireless communications facility shall, in addition to complying with the remainder of Sections 13.10.660 through 13.10.668 inclusive, comply with all of the following:
- (a) The facility shall be of the microcell site type (as defined in Section 13.10.660(d)) if technically feasible, and shall be mounted upon an existing or replacement utility pole if technically feasible (where “replacement” means that there exists a utility pole in that location and it is immediately replaced with a pole that looks the same or better (i.e., has a reduced visual impact) and has the same or lesser (i.e., has a reduced visual impact) dimensions as the existing utility pole);
 - (b) The facility shall be located on the inland side of the right-of-way unless a location on the seaward side of the right-of-way would result in less visual impact; and
 - (c) If located on a the utility pole, shall only be allowed in the coastal right-of-way provided the applicant’s agreement(s) with the owner and operator of the right-of-way and the utility pole specifies that the facility shall be removed by the applicant if informed by the owner and operator that the utility pole is to be removed because the utilities the pole supports are to be relocated underground.
- (3) Exceptions to Restricted Area Prohibition. Wireless communication facilities that are co-located upon existing wireless communication facilities/towers, and which do not significantly increase the visual impact of the existing facility/tower, are allowed in the restricted zoning districts and in the restricted coastal right-of-way area (subject to the parameters of Section 13.10.661(c)(2)) listed above. Applicants proposing new ~~non-~~collocated wireless communication facilities in the Restricted Areas must submit as part of their application an Alternatives Analysis, as described in Section 13.10.662(c) below. In addition to complying with the remainder of Sections 13.10.660 through 13.10.668 inclusive, n~~Non-~~collocated wireless communication facilities may be sited in the restricted zoning districts listed above only in situations where the applicant can prove that:
- (i) The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier’s network; and
 - (ii) There are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites and/or facility types and/or designs) outside the prohibited and ~~or~~ restricted areas identified in Sections 13.10.661(b), and 13.10.661(c)(1), (b)(2), and (c)(4) that could eliminate or substantially reduce said significant gap(s).

- (~~ed~~) Compliance with FCC Regulations. Wireless communication facilities shall comply with all Federal Communication Commission (FCC) rules, regulations, and standards. Inhabitants of the county shall be protected from the possible adverse health effects associated with exposure to harmful levels of NIER (non-ionizing electromagnetic radiation) by ensuring that all wireless communication facilities comply with NIER standards set by the FCC.
- (~~ee~~) Compliance with FAA Regulations. Wireless communication facilities shall comply with all applicable criteria from the Federal Aviation Administration (FAA) and shall comply with adopted airport safety regulations for Watsonville Municipal Airport (County Code Section 13.12).
- (~~ef~~) Site Selection – Visual Impacts. Wireless communication facilities ~~should generally~~shall be sited in the least visually obtrusive location that is technically feasible, unless such site selection leads to other resource impacts that make such a site the more environmentally damaging location overall.
- (~~fg~~) Co-Location. Co-location of new wireless communication facilities into/onto existing wireless communication facilities and/or existing telecommunication towers is generally encouraged. Co-location may require that height extensions be made to existing towers to accommodate additional users, or may involve constructing new multi-user capacity towers that replace existing single-user capacity towers. Where the visual impact of an existing tower/facility must be increased to allow for co-location, the potential increased visual impact shall be weighed against the potential visual impact of constructing a new separate tower/facility nearby. Where one or more wireless communication tower/facilities already exist on the proposed site location, co-location shall be required if it will not significantly increase the visual impact of the existing facilities. This may require that the existing tower(s) on the site be dismantled and its antennas be mounted upon the new tower, particularly if the new tower would be less visually obtrusive than the existing tower(s). If a co-location agreement cannot be obtained, or if co-location is determined to be technically infeasible, documentation of the effort and the reasons why co-location was not possible shall be submitted.
- (~~gh~~) Public Notification. Public hearing notice shall be provided pursuant to Section 18.10.223. However, due to the potential adverse visual impacts of wireless communication facilities the neighboring parcel notification distance for wireless communication facility applications is increased from the normal 300-feet to 1,000-feet from the outer boundary of the subject parcel. To further increase public notification, onsite visual mock-ups as described below in Section 13.10.662(~~ed~~) are also required for all proposed all-new non-collocated wireless communication facilities, except for co-located and microcell facilities that do not represent a major modification to visual impact as defined in Section 13.10.660(d).
- (~~hi~~) Major Modification to Power Output. Any proposed major modification that would increase the power output of a wireless communication facility, as defined in Section 13.10.660(d), shall require the submission of an affidavit by a professional engineer

registered in the State of California that the proposed facility improvements will not result in RF exposure levels to the public in excess of FCC's NIER exposure standard. In addition, within 90-days of commencement of operation of the modified facility, the applicant shall conduct RF exposure level monitoring at the site, utilizing the Monitoring Protocol, and shall submit a report to the Planning Department documenting the results of said monitoring.

- (ij) Major Modification to Visual Impact. Any proposed major modification that would increase the visual impact of a wireless communication facility, as defined in Section 13.10.660(d), shall be subject to all requirements of this Section.
- (kj) Transfer of Ownership. In the event that the original permittee sells its interest in a wireless communication facility, the succeeding carrier shall assume all responsibilities concerning the project and shall be held responsible to the County for maintaining consistency with all project conditions of approval, including proof of liability insurance. A new contact name for the project shall be provided by the succeeding carrier to the Planning Department within 30-days of transfer of interest of the facility.
- ~~(k) Disclosure of Public Safety Wireless Communication Facility Locations. Unless otherwise prohibited by law or exempted by action of the Board of Supervisors, for wireless communication facilities which are exempt Section 13.10.660(e)(7), public safety agencies shall be required to provide a map of facility locations for inclusion in the County's Wireless Communication Facilities GIS map.~~

13.10.662 APPLICATION REQUIREMENTS FOR WIRELESS COMMUNICATION FACILITIES

All new wireless communication facilities, ~~except for exempted facilities described under Section 13.10.660(e),~~ must receive be authorized by a Commercial Development Permit, and also by a Coastal Development Permit if located in the coastal zone, and are subject to the following permit application requirements:

- (a) Pre-Application Meeting. All applicants for proposed wireless communication facilities are encouraged to apply for the Development Review Group process, pursuant to County Code Chapter 18.10, in order to allow Planning Department staff to provide feedback to the applicant regarding facility siting and design prior to formal application submittal.
- (b) Submittal Information – All Applications. For all wireless communication facilities, in addition to the submittal requirements for Level V projects as specified in Section 18.10.210(b), the information listed below must accompany each application: ~~(f) For the purpose of permit processing, the Planning Director or his/her designee may release an applicant from having to provide one or more of the pieces of information on this list upon a written finding that in the specific case involved said information is not necessary to process or make a decision on the application being submitted.);~~
 - (1) The identity and legal status of the applicant, including any affiliates.

- (2) The name, address, and telephone number of the officer, agent or employee responsible for the accuracy of the application information.
- (3) The name, address, and telephone number of the owner, and agent representing the owner, if applicable, of the property upon which the proposed wireless communication facility is to be built and title reports identifying legal access.
- (4) The address and assessor parcel number(s) of the proposed wireless communication facility site, including the precise latitude/longitude coordinates (NAD 83) in decimal degree format, of the proposed facility location on the site.
- (5) A description of the applicant service provider's existing wireless communication facilities network, and the provider's currently proposed facilities and anticipated future facilities for all proposed sites for which an application has been submitted, and for all proposed sites for which site access rights or agreements have been secured by the provider. This must include a map, and a table (in hardcopy and digital formats) listing facility situs/addresses, site names/identification, facility types, and precise latitude/longitude coordinates (NAD 83) in decimal degree format, for all of the applicant carrier's existing and proposed facilities, within both the unincorporated and incorporated areas of Santa Cruz County, for inclusion on the County's Wireless Communication Facility GIS Map. In lieu of submitting this information with multiple applications, if this information has been previously submitted by the applicant, the applicant alternatively may certify in writing that none of the submitted information has changed. Information regarding proposed network expansions will be kept confidential by the County if identified in writing as trade secrets by the applicant.
- (6) A description of the wireless communication services that the applicant intends to offer to provide, or is currently offering or providing, to persons, firms, businesses or institutions within both the unincorporated and incorporated areas of Santa Cruz County.
- (7) Information sufficient to determine that the applicant has applied for and/or received any certificate of authority required by the California Public Utilities Commission (if applicable) to provide wireless communications services or facilities within the unincorporated areas of the County of Santa Cruz.
- (8) Information sufficient to determine that the applicant has applied for and/or received any building permit, operating license or other approvals required by the Federal Communications Commission (FCC) to provide services or facilities within the unincorporated areas of the County of Santa Cruz.
- (9) Compliance with the FCC's non-ionizing electromagnetic radiation (NIER) standards or other applicable standards shall be demonstrated for any new wireless communication facility through submission of a written opinion submitted, by a professional engineer registered in the State of California, at the time of application.

- (10) A plan for safety/security considerations, consistent with Section 13.10.664. A detailed description of the proposed measures to ensure that the public would be kept at a safe distance from any NIER transmission source associated with the proposed wireless communication facility, consistent with the NIER standards of the FCC or any potential future superceding standards, must be submitted as part of the application. The submitted plans must also show that the outer perimeter of the facility site (or NIER hazard zone in the case of rooftop antennas) will be posted with bilingual NIER hazard warning signage that also indicates the facility operator and an emergency contact. The emergency contact shall be someone available on a 24-hour a day basis who is authorized by the applicant to act on behalf of the applicant regarding an emergency situation. For the protection of emergency response personnel, each wireless communication facility shall have an on-site emergency shut-off switch to de-energize all RF-related circuitry/componentry at the base station site (including a single shut off switch for all facilities at a co-location site), or some other type of emergency shut-off by emergency personnel acceptable to the local Fire Chief, unless the applicant can prove that the FCC public exposure limits cannot be exceeded in the vicinity of the proposed facility, even if firefighters or other personnel work in close proximity to the antenna(s) or other RF radiation emitting devices/components.
- (11) A detailed Visual Analysis, including computer photo simulations of the proposed wireless communication facility, shall be provided along with a written description from the installer. Photo-simulations shall be submitted of the proposed wireless communication facility from various locations and/or angles from which the public would typically view the site. All photo simulations shall include a site map indicating the location from which the photo was taken, and a description of the methodology and equipment used to generate the simulation. More in-depth visual analyses ~~will~~shall be required for facilities proposed in visual resource areas,~~as~~ designated in Section 5.10 of the County General Plan/LCP. The Visual Analysis shall identify and include all potential mitigation measures for visual impacts, consistent with the technological requirements of the proposed telecommunication service.
- (12) Detailed maps of proposed wireless communication facility site and vicinity, in full-size and 8.5" x 11" reduction formats. Reduced plans shall include a graphic scale to allow for direct measurement from them. The following maps are required at the time of application submittal:
- i. Topographic/Area Map – copy a portion of the most recent U.S.G.S. Quadrangle topographical map (with 20-foot contour intervals), at a scale of 1:24,000, indicating the proposed wireless communication facility site, and showing the area within at least two miles from the proposed site.
 - ii. Proximity Map and Aerial Photo – prepare a map and an aerial photo at a scale of approximately 1"= 200' (1:-2,400), with contour intervals (for map only) no greater than 20 feet, showing the entire vicinity within a 1,500'-~~foot~~ radius of the wireless communication facility site, and including topography

(map only), public and private roads, driveways on the subject parcel, buildings and structures, bodies of water, wetlands, landscape features, and historic sites. Draw a 1,500'-~~foot~~ radius circle on the map and aerial photo with the proposed facility at its center and indicate all structures within 1,500 feet of the proposed tower/antennas. Indicate property lines of the proposed tower/facility site parcel and of all parcels and right-of-ways abutting ers to the tower/facility site parcel.

- (13) Detailed plans and cross sections of proposed wireless communication facility and site, in full-size and 8.5" x 11" reduction formats. Reduced plans shall include a graphic scale to allow for direct measurement from them. Full-size plans shall be on 24" x 36" sheets, on as many as necessary, and at scales which are no smaller than those listed below. Each plan/cross section sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and signature(s) of the professional(s) who prepared the plan. The following plans and cross sections are required at the time of application submittal:

- (i) Proposed Site Plan – Proposed wireless communication facility site layout, grading and utilities at a scale no smaller than 1"=40' (1:480) with topography drawn at a minimum of 10'-~~foot~~ contour intervals, showing existing utilities, property lines, existing buildings or structures, walls or fence lines, existing trees, areas with natural vegetation, existing water wells, springs, and the boundaries of any wetlands, watercourses and/or floodplains.
 - a. Proposed tower/facility location and any associated components~~appurtenances~~, including supports and guy wires, if any, and any accessory building (communication equipment shelter or other). Indicate property boundaries and setback distances from those boundaries to the base(s) of the tower/mast and to the nearest corners of each appurtenant~~facility-related~~ structure and/or component to those boundaries, and Include dimensions of all proposed improvements.
 - b. Indicate existing and proposed spot-grade elevations where the existing and proposed grade intersects~~at the base of~~ the proposed tower/mast, and at the base of any guy wires, and the corners of all facility-related appurtenant~~structures~~ and/or components.
 - c. Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or communication lines, and whether underground or above ground.
 - d. Limits of area where vegetation is to be cleared or altered, and justification for any such clearing or alteration.
 - e. Any direct or indirect wetlands~~alteration~~ proposed to environmentally sensitive habitat areas, including wetlands and riparian corridors. Note that such alteration is only allowed under very specific circumstances

and subject to specific requirements governed by the LCPs environmentally sensitive habitat area, wetland, riparian corridor, and other similar resource protection requirements; these requirements are not suspended in any way by this section.

- f. Detailed drainage plans designed to control and direct all site runoff, including specific measures to for drainage of surface and/or subsurface water; plans to control erosion and sedimentation, both during construction and as a permanent measure. The plan shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater and other runoff leaving the site.
 - g. Plans indicating locations and specifies descriptions of proposed screening, landscaping, ground cover, irrigation systems, fencing, and etc; any exterior lighting or signs. For any vegetation proposed to be used for screening purposes, the plans shall identify the expected dimensions and other characteristics of each individual species over time (including, at a minimum, on a yearly basis until maturity and/or maximum size is reached), and the expected dimensions and other characteristics of any overall vegetation screen over time (including, at a minimum, on a yearly basis until maturity and/or maximum size is reached). All species to be planted shall be non-invasive species native to Santa Cruz County, and specifically native to the project location. See also Section 13.10.663(b)(9).
 - h. Plans of proposed access driveway or roadway and parking area at the facility site. Include grading, drainage, and traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.
 - i. Plans showing any changes to be made to an existing facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking, or other infrastructure as a result of a proposed modification of the facility. Note that changes to wetlands and other sensitive habitat areas are only allowed under very specific circumstances and subject to specific requirements governed by the LCPs environmentally sensitive habitat area, wetland, and other similar resource protection requirements; these requirements are not suspended in any way by this section.
- (ii) Proposed Tower/Facility and Related Structures and/or Components Appurtenances:
- a. Plans, elevations, sections and details at appropriate scales, but no smaller than 1"=10'.

- b. Two cross sections through proposed tower/facility drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of any vegetation clearing or beyond the fall zone of the tower/mast, whichever is greater, and showing any guy wires or supports. Dimension the proposed height of the tower/mast above average grade at tower/mast base. Show all proposed antennas including their location on the tower/facility.
 - c. Detail proposed exterior finish of the tower/facility. Provide precise depictions, [photo examples](#), and/or detail drawings for [all](#) stealth features (such as “monopine” branches).
 - d. Indicate relative height of the tower/facility [as compared](#) to the tops of surrounding trees as they presently exist, [and to existing and proposed finished grades](#).
 - e. Illustration of the modular structure of the proposed tower/facility indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands (including potential future co-location).
 - f. A Structural Professional Engineer’s written description of the proposed tower/facility structure and its capacity to support additional antennas or other communication facilities at different heights and the ability of the tower to be shortened if future communication facilities no longer require the original height.
 - g. A description of the available space on the tower, providing illustrations and examples of the type and number of co-located wireless communication facilities which could be mounted on the structure.
 - h. -Photographs precisely depicting the tower/facility type to be installed.
- (iii) Proposed Communications Equipment Shelter – including (a) floor plans, elevations and cross sections at a scale of no smaller than ¼”=1’ (1:48) of any proposed ~~appurtenant~~-structural [componente](#), (b) representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials, and (c) a description of all equipment to be contained therein, including number, make and model of each electromagnetic and radio-frequency apparatus to be installed.
- (iv) Proposed Equipment Plan:
- a. Plans, elevations, sections and details at appropriate scales but no smaller than 1”=10’.

- b. Number of antennas and repeaters, as well as the exact locations, of antenna(s) and all repeaters (if any) located on a map as well as by degrees, minutes and seconds of Latitude and Longitude (in decimal degree format).
- c. Mounting locations on tower or structure, including height above ground existing and proposed finished grades.
- d. A recent survey of the facility site at a scale no smaller than 1"=40' (1:480) showing horizontal and radial distances of antenna(s) to nearest point on property line, and to the nearest dwelling unit.
- e. For applications for new wireless communication facilities in any of the prohibited or restricted areas, as set forth in Sections 13.10.661(b) and 13.10.661(c)(1) and (2), the applicant must also disclose:
 - 1. Number, type(s), manufacturer(s) and model number(s) for all antennas and other RF-generating equipment.
 - 2. For each antenna, the antenna gain and antenna radiation pattern.
 - 3. Number of channels per antenna, projected and maximum.
 - 4. Power input to each antenna.
 - 5. Power output, in normal use and at maximum output for each antenna and all antennas as an aggregate.
 - 6. Output frequency of the transmitter(s).
- f. For modification of an existing facility with multiple emitters, the results of an intermodulation study to predict the interaction of the additional equipment with existing equipment.

(14) If co-location is not proposed, the applicant shall provide information pertaining to the feasibility of joint-use antenna facilities, and discuss the reasons why such joint use is not a viable option or alternative to a new facility site. Such information shall include:

(a) Whether it is feasible to locate proposed sites where facilities currently exist;

(b) Information on the existing structure that is closest to the site of the applicants proposed facility relative to the existing structure's structural capacity, radio frequency interface, or incompatibility of different technologies, which would include mechanical or electrical incompatibilities; and

(c) Written notification of refusal of the existing structure owner to lease space on the structure.

(15) For any application that involves a major modification to, or replacement of, an applicant's wireless communication facility, the applicant shall submit a brief narrative description and any supporting graphics (such as plans, photos, relevant literature, etc.) detailing any changes in wireless communication facility technologies that would allow the existing facility to be modified to provide for the same or increased level of service with less environmental impact, including less visual resource impact, as technically feasible.

(c) ~~Additional Submittal Requirements for Restricted or Prohibited Areas Only~~—Alternatives Analysis. For applications for wireless communication facilities proposed to be located in ~~one-any~~ of the restricted and/or prohibited areas specified in Sections 13.10.661(b) and (c), an Alternatives Analysis must be submitted by the applicant, subject to independent RF engineering review, which shall at a minimum:

(1) Identify and indicate on a map, at a minimum two (2) ~~of the~~ viable, technically feasible, and potentially environmentally equivalent or superior alternative locations outside the prohibited and restricted areas which could eliminate or substantially reduce the significant gap(s) in the applicant carrier's network intended to be eliminated or substantially reduced by the proposed facility. If there are fewer than two such alternative locations, the applicant must provide evidence establishing that fact. The map shall also identify all locations where an unimpaired signal can be received to eliminate or substantially reduce the significant gap(s). For all non-collocated wireless communication facilities proposed in a restricted/prohibited area, the applicant must also evaluate the potential use of one or more microcell sites (i.e., smaller facilities often mounted upon existing or ~~new-replacement~~ utility poles), and the use of repeaters, to eliminate or substantially reduce said significant gaps in lieu of the proposed facility. For each alternative location so-identified, the applicant shall describe the type of facility and design measures that could be used at that location so as to minimize negative resource impacts (e.g., the use of stealth camouflaging techniques).

(2) ~~Address-Evaluate~~ the potential for co-location with existing wireless communication facilities as a means to eliminate or substantially reduce the significant gap(s) in the applicant carrier's network intended to be eliminated or substantially reduced by the proposed facility.

(3) ~~Explain the rationale for selection of the proposed site in view of~~—Compare, across the same set of evaluation criteria and to similar levels of description and detail, the relative merits of the proposed site with those of each any—of the identified technically feasible alternative locations and facility designs. Such comparison analysis shall, including any evidence, if applicable, that none of rank each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives) in terms of impacts (i.e. from least to most environmentally damaging), and shall support such ranking with clear analysis and

~~evidence, the technically feasible potential alternative sites or facility design types are environmentally equivalent or superior to the proposed site.~~

- (4) Include photo-simulations of ~~each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives). at least two (2) of the viable, technically feasible, and potentially environmentally equivalent or superior alternative sites, and at least one of the alternative designs types considered.~~
- (5) Document good faith and diligent attempts to rent, lease, purchase or otherwise obtain the use of at least two (2) of the viable, technically feasible alternative sites which may be environmentally equivalent or superior to the proposed project site. The decision making body may determine that an alternative site is not viable if good faith attempts to rent, lease, purchase or otherwise obtain the site have been unsuccessful.

The Planning Director (or his/her designee) or the decision making body may also require an Alternatives Analysis for proposed wireless communication facility projects that are located in environmentally sensitive areas other than those set forth in Sections 13.10.661(b) and /or 13.10.661(c), such as visual resource areas as identified in General Plan/LCP Section 5.10.

- (d) Onsite Visual Demonstration Structures (Mock-Ups) Onsite visual demonstration structures (i.e., mock-ups) shall be required for all proposed wireless communication facilities, except for co-located and microcell facilities that do not represent a major modification to visual impact as defined in Section 13.10.660(d). For proposed rooftop or ground-mounted antennas, a temporary mast approximating the dimensions of the proposed facility shall be raised at the proposed antenna/mast location. For proposed new telecommunications towers the applicant will be required ~~to arrange~~ to raise a temporary mast at the maximum height and at the location of the proposed tower. At minimum, the onsite demonstration structure shall be in place prior to the first public hearing to consider project approval, on at least two weekend days and two weekdays between the hours of 8 a.m. to 6 p.m., for a minimum of 10 hours each day. A project description, including photo simulations of the proposed facility, shall be posted at the proposed project site for the duration of the mock-up display. The Planning Director or his/her designee may release an applicant from the requirement to conduct on-site visual mock-ups upon a written finding that in the specific case involved said mock-ups are not necessary to process or make a decision on the application and would not serve as effective public notice of the proposed facility.
- (e) Amendment. Each applicant/registrant shall inform the County, within thirty (30) days of any change of the information required pursuant to ~~this Subdivision~~ Sections 13.10.660 through 13.10.668 inclusive.
- (f) Technical Review. The applicant will be notified if an independent technical review of any submitted technical materials is required. The Planning Director or his/her designee shall review and, in his or her discretion, procure additional information and data as may

assist him/her in reviewing the following: (1) reports concerning conformance with the FCC RF radiation exposure levels; (2) reports concerning the need for a facility; and/or (3) reports concerning availability or suitability of alternatives to a proposed facility. The Planning Director may employ, on behalf of the County, an independent technical expert or experts to review any technical materials submitted including but not limited to those required under this Section, and in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is required. The review and procurement of such additional information/data shall be undertaken for all applications that seek approval of a facility in a Prohibited or Restricted Area, unless the Planning Director, his/her designee, or the approving body determines in writing that such review is unnecessary to inform the decision-making process. In addition, the review and procurement of information for applications in other areas may be required if the Planning Director determines that such review is necessary to inform the decision-making process. The applicant shall pay all the costs of said review and may be required to deposit funds in advance to cover the estimated costs of said review. If clearly marked as such by the applicant, any trade secrets or proprietary information disclosed to the County, the applicant, or the expert hired shall remain confidential and shall not be disclosed to any third party.

(g) Technical Feasibility. For any technical infeasibility claims made, the applicant shall be required to conclusively demonstrate, including submitting adequate evidence to that effect, the reasons for the technical infeasibility.

(gh) Fees. Fees for review of all Commercial Development Permits for wireless communication facilities shall be established by Resolution of the Board of Supervisors.

13.10.663 GENERAL DEVELOPMENT/PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATION FACILITIES:

(a) Site Location

~~Except for exempt facilities as described in Section 13.10.660(e), the~~ The following criteria shall govern appropriate locations and designs for wireless communication facilities, including dish antennas and Multi-channel, Multi-point Distribution Services (MMDS)/wireless cable antennas, and may require the applicant to select an alternative site other than the site shown on an initial permit application for a wireless facility:

(1) Visual Character of Site. Site location and development of wireless communications facilities shall preserve the visual character, native vegetation and aesthetic values of the ~~specific~~ parcel on which such facilities are proposed, the surrounding parcels and road right-of-ways, and the surrounding land uses to the greatest extent that is technically feasible, and shall minimize visual impacts on surrounding land and land uses to the greatest extent feasible. Facilities shall be integrated to the maximum extent feasible to the existing characteristics of the site, and every effort shall be made to avoid, or minimize to the maximum extent feasible, visibility of a wireless communication facility within significant public

viewsheds. Utilization of camouflaging and/or stealth techniques shall be encouraged where appropriate. Support facilities shall be integrated to the existing characteristics of the site, so as to minimize visual impact.

- (2) Co-Location. Co-location is generally encouraged in situations where it is the least visually obtrusive option, such as when increasing the height/bulk of an existing tower would create-result in less visual impact than constructing a new separate tower in a nearby location.
- (3) Ridgeline Visual Impacts. Wireless communication facilities proposed for visually prominent ridgeline, hillside or hilltop locations shall be sited and designed to be as visually unobtrusive as possible. Consistent with General Plan/LCP Policy 8.6.6, wireless communication facilities should be sited so the top of the proposed tower/facility is below any ridgeline when viewed from public roads in the vicinity. If the tower must extend above a ridgeline the applicant must camouflage the tower by utilizing stealth techniques and hiding it among surrounding vegetation.
- (4) Site Disturbance. Disturbance of existing topography and on-site vegetation shall be minimized, unless such disturbance would substantially reduce the visual impacts of the facility.
- (5) Exterior Lighting. Any exterior lighting, except as required for FAA regulations for airport safety, shall be manually operated and used only during night maintenance checks or in emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled.
- (6) Aviation Safety. No wireless communication facility shall be installed within the safety zone or runway protection zone of any airport, airstrip or helipad within Santa Cruz County unless the airport owner/operator indicates that it will not adversely affect the operation of the airport, airstrip or helipad. In addition, no wireless communication facility shall be installed at a location where special painting or lighting will be required by the FAA regulations unless the applicant has demonstrated to the Planning Director, that the proposed location is the only technically feasible location for the provision of personal wireless services as required by the FCC.
- (7) Coastal Zone Considerations. New wireless communication facilities in any portion of the Coastal Zone shall be consistent with applicable policies of the County Local Coastal Program (LCP) and the California Coastal Act. No portion of a wireless communication facility shall extend onto or impede access to a publicly used beach. Power and telecommunication lines servicing wireless communication facilities in the Coastal Zone shall be required to be placed underground.
- (8) Consistency with Other County Land Use Regulations. All proposed wireless communication facilities shall comply with the policies of the County General Plan/Local Coastal Plan and all applicable development standards for the zoning

district in which the facility is to be located, particularly policies for protection of visual resources (i.e., General Plan/LCP Section 5.10). Public vistas from scenic roads, as designated in General Plan Section 5.10.10, shall be afforded the highest level of protection.

- (9) Visual Impacts to Neighboring Parcels. To minimize visual impacts to surrounding residential uses, the base of any new freestanding telecommunications tower shall be set back from any residentially zoned parcel a distance equal to five times the height of the tower, or a minimum of 300 feet, whichever is greater. This requirement may be waived by the decision making body if the applicant can prove that the tower will not be readily visible from neighboring residential structures, or if the applicant can prove that a significant area proposed to be served would otherwise not be provided personal wireless services by the subject carrier, including proving that there are no viable, technically feasible, environmentally equivalent or superior alternative sites outside the prohibited and restricted areas designated in Section 13.10.661(b) and 13.10.661(c).
- (10) Setbacks. All components of new wireless communication facilities must comply with the setback standards for the applicable zoning district. Depending upon specific site constraints and circumstances, ~~This~~ requirement may not apply to antennas proposed to be co-located on existing towers or utility poles (e.g., microcell sites), nor to underground equipment shelters, if it would prohibit use of the proposed facility site.

(b) Design Review Criteria

The following criteria apply to all wireless communication facilities, ~~except exempt facilities as described in Section 13.10.660(e)~~:

- (1) Non-Flammable Materials. All wireless communication facilities shall be constructed of non-flammable material, unless specifically approved and conditioned by the County to be otherwise (e.g., when a wooden structure is may be necessary to minimize visual impact).
- (2) Tower Type. All telecommunication towers shall be self-supporting monopoles except where satisfactory evidence is submitted to the appropriate decision-making body that a non-monopole (such as a guyed or lattice tower) is required or environmentally superior. All guy wires must be sheathed for their entire length with a plastic or other suitable covering.
- (3) Support Facilities. The County strongly encourages all support facilities, such as equipment shelters, to be placed in underground vaults, so as to minimize visual impacts. Any support facilities not placed underground shall be located and designed to minimize their visibility and, if appropriate, disguise their purpose to make them less prominent. These structures should be no taller than twelve (12) feet in height, and shall be designed to blend with existing architecture and/or the

natural surroundings in the area or shall be screened from sight by mature landscaping.

- (4) Exterior Finish. All support facilities, poles, towers, antenna supports, antennas, and other components of communication facilities shall be of a color approved by the ~~appropriate authority~~decision making body. If a facility is conditioned to require paint, it shall initially be painted with a flat (i.e., non-reflective) paint color approved by the ~~decision making body~~appropriate authority, and thereafter repainted as necessary with a flat paint color, unless it is determined that flat paint color would lead to more adverse impact than would another type of paint color. Components of a wireless communication facility which will be viewed against soils, trees, or grasslands, shall be of a color or colors consistent with these landscapes. All proposed stealth tree poles (e.g., “monopines”) must use bark screening that approximates natural bark for the entire height and circumference of the monopole visible to the public, as technically feasible.
- (5) Visual Impact Mitigation. Special design of wireless communication facilities may be required to mitigate potentially significant adverse visual impacts, including appropriate camouflaging or utilization of stealth techniques. Use of less visually obtrusive design alternatives, such as “micro-cell” facility-types that can be mounted upon existing utility poles, is encouraged. Telecommunication towers designed to look like trees (e.g., “monopines”) may be favored on wooded sites with existing similar looking trees where they can be designed to adequately blend with and/or mimic the existing trees. In other cases, stealth-type structures that mimic structures typically found in the built environment where the facility is located may be appropriate (e.g., small scale water towers, barns, and other typical farm-related structures on or near agricultural areas). Rooftop or other building mounted antennas designed to blend in with the building’s existing architecture shall be encouraged. Co-location of a new wireless communication facility onto an existing telecommunication tower shall generally be favored over construction of a new tower. Owners/operators of wireless communication towers/facilities are required to maintain the appearance of the tower/facility, as approved, throughout its operational life. Public vistas from scenic roads, as designated in General Plan/LCP Section 5.10.10, shall be afforded the highest level of protection.
- (6) Height. The height of a wireless communication tower shall be measured from the existing undisturbed ground surface below the center of the base of said tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of building-mounted towers the height of the tower includes the height of the portion of the building on which it is mounted. In the case of “crank-up” or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised. All towers shall be designed to be the shortest height possible so as to minimize visual impact. Any applications for towers of a height more than the allowed height for structures in the zoning district must include a written justification proving the need for a tower of that height and the absence of viable alternatives that would have less visual impact, and shall, in addition to any other

required findings and/or requirements, require a variance approval pursuant to Code Section 13.10.230.

- (7) Lighting. Except for as provided for under Section 13.10.663(a)(5), all wireless communication facilities shall be unlit except when authorized personnel are present at night.
- (8) Roads and Parking. All wireless communication facilities shall be served by the minimum sized roads and parking areas allowedfeasible.
- (9) Vegetation Protection and Facility Screening.
 - (i) In addition to stealth structural designs, vegetative screening may be necessary to minimize wireless communication facility visibility within public viewsheds. All new vegetation to be used for screening shall be compatible with existing surrounding vegetation. Vegetation used for screening purposes shall be capable of providing the required screening upon completion of the permitted facility (i.e., an applicant cannot rely on the expected future screening capabilities of the vegetation at maturity to provide the required immediate screening).
 - (ii) Because Santa Cruz County contains many unique and threatened plant species and habitat areas, all telecommunications facilities to be located in areas of extensive natural vegetation shall be installed in such a manner so as to maintain the existing native vegetation. Where necessary, appropriate mature landscaping can be used to screen the facility. However, so as to not pose an invasive or genetic contamination threat to local gene pools, all vegetation proposed and/or required to be planted that is associated with a wireless communication facility shall be non-invasive species native to Santa Cruz County, and specifically native to the project location. Non-native and/or invasive species shall be prohibited (such as ~~proposed vegetation should not include~~ any species listed on the California Exotic Pest Plant Council “Pest Plant List” in the categories entitled ‘A’, ‘B’, or ‘Red Alert’). ~~(see website: <http://groups.ucanr.org/ceppe/Pest-Plant-List/>), Cultivars of native plants that may cause genetic pollution (such as some ~~nor should it include any~~ manzanita or and ceanothus species) shall be prohibited, or annual wildflower seeds or seed mixes.~~ All wireless communication facility approvals shall be conditioned for the removal of non-native invasive plants (e.g., iceplant) in the area disturbed by the facility and replanting with appropriate non-invasive native species capable of providing similar or better vegetated screening and/or visual enhancement of the facility unless the decision making body determines that such removal and replanting would be more environmentally damaging than leaving the existing non-native and/or invasive species in place (e.g., a eucalyptus grove that provides over wintering habitat for Monarch butterflies may be better left alone). All applications shall provide detailed landscape/vegetation plans specifying the non-invasive native plant species to be used, including identification of sources to be used to supply seeds and/or plants for the project. Any such landscape/vegetation plan shall be prepared by a

qualified botanist experienced with the types of plants associated with the facility area. For purposes of this section, "mature landscaping" shall mean trees, shrubs or other vegetation of a size that will provide the appropriate level of visual screening immediately upon installation. All nursery stock, construction materials and machinery, and personnel shall be free of soil, seeds, insects, or microorganisms that could pose a hazard to the native species or the natural biological processes of the areas surrounding the site (e.g., Argentine ants or microorganisms causing Sudden Oak Death or Pine Pitch Canker Disease). Underground lines shall be routed outside of plant drip lines to avoid damage to tree and large shrub root systems to the maximum extent feasible.

(iii) No actions shall be taken subsequent to project completion with respect to the vegetation present that would increase the visibility of the facility itself or the access road and power/telecommunication lines serving it. All owners of the property and all operators of the facility shall be jointly and severally responsible for maintenance (including irrigation) and replacement of all required landscaping for as long as the permitted facility exists on the site.

(10) Fire Prevention/Emergency Response. All wireless communication facilities shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs. To this end, all of the following measures shall be implemented for all wireless communication facilities, when determined necessary by the Fire Chief:

- (i) At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings;
- (ii) Rapid entry (KNOX) systems shall be installed as required by the Fire Chief;
- (iii) Type and location of vegetation, screening materials and other materials within ten (10) feet of the facility and all new structures, including telecommunication towers, shall have review for fire safety purposes by the Fire Chief. Requirements established by the Fire Chief shall be followed; ~~and~~
- (iv) All tree trimmings and trash generated by construction of the facility shall be removed from the property and properly disposed of prior to building permit finalization or commencement of operation, whichever comes first; ~~and-~~
- (v) For the protection of emergency response personnel, at any wireless communication facility where there is the possibility that RF radiation levels in excess of the FCC public exposure limit could be experienced by emergency response personnel working in close proximity to antennas/RF-emitting devices, said facility shall have an on-site emergency power shut-off (e.g., "kill switch") to de-energize all RF-related circuitry/componentry at the base station site, or some other method (acceptable to the local Fire Chief) for de-energizing the facility. For multi-facility (co-location) sites where there is a possibility that RF radiation levels in excess of the FCC public exposure limit

could be experienced by emergency response personnel working in close proximity to antennas/RF-emitting devices, a single power shut off switch (or other method acceptable to the local Fire Chief) shall be installed that will de-energize all facilities at the site in the event of an emergency.

- (11) Noise and Traffic. All wireless communication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end all the following measures shall be implemented for all wireless communication facilities:
- (i) Outdoor noise producing construction activities shall only take place on non-holiday weekdays between the hours of 8:00 a.m. and 6:00 p.m. unless allowed at other times by the approving body; and
 - (ii) Backup generators shall only be operated during power outages and for testing and maintenance purposes. If the facility is located within one hundred feet (100') of a residential dwelling unit, noise attenuation measures shall be included to reduce noise levels at the facility to a maximum exterior noise level of 60 Ldn at the property line and a maximum interior noise level of 45 Ldn within nearby residences.
- (12) Facility and Site Sharing (Co-Location). New wireless communication towers should be designed to accommodate multiple carriers, and/or to be readily modified to accommodate multiple carriers, so as to facilitate future co-locations and thus minimize the need to construct additional towers. New telecommunications towers should be designed and constructed to accommodate future additional antennas and/or height extensions, as technically feasible. New wireless communication facility appurtenances components, including but not limited to parking areas, access roads, and utilities should also be designed so as not to preclude site sharing by multiple users, as technically feasible, thus in order to removing potential obstacles to future co-location opportunities. The decision making body may require the facility and site sharing (co-location) measures specified in this section if necessary to comply with the purpose, goals, objectives, policies, standards, and/or requirements of the General Plan/Local Coastal Program, including Sections 13.10.660 through 13.10.668 inclusive and the applicable zoning district standards in any particular case. However, a wireless service provider will not be required to lease more land than is necessary for the proposed use. If room for potential future additional users cannot, for technical reasons, be accommodated on a new wireless communication tower/facility, written justification stating the reasons why shall be submitted by the applicant. Approvals of wireless communication facilities shall include a requirement that the owner/operator agrees to the following co-location parameters:
- (a) To respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

- (b) To negotiate in good faith for shared use of the wireless communication facility by third parties; and
- (c) To allow shared use of the wireless communication facility if an applicant agrees in writing to pay reasonable charges for co-location.
- (13) Coastal Zone Design Criteria. In addition to the requirements set forth herein, all wireless communication facilities requiring a Coastal Development Permit shall conform with the Coastal Zone design criteria requirements of County Code Section ~~13.4020~~.130.
- (14) Signage. A notice shall be posted at the main entrance of all buildings or structures where structure-mounted or free-standing wireless communication facilities are located on the same parcel. The notice shall be 12"x 12" and shall inform the public that a wireless communication facility is located on the building, structure or property and shall be consistent with the requirements of Federal law.
- (15) Existing Facilities. Where applications involve existing wireless communication facilities, modifications to the existing facilities to reduce environmental impacts, including visual impacts, shall be pursued as technically feasible. If such modifications would reduce impacts, then such modifications shall be made as feasible, technically and otherwise, provided the reduction in impact is roughly commensurate with the cost to make the modifications.
- (16) Approved Project. Approvals of wireless communication facilities shall require that the facility, including, but not limited to, all stealth design measures and vegetation screening, be maintained in its approved state for as long as it exists on the site. Approved facility plans, detailing the approved facility and all camouflaging elements, and including all maintenance parameters designed to ensure that camouflaging is maintained over the life of the project, shall be required for all approvals.
- (17) Ongoing Evaluation. Wireless communication service providers are encouraged to evaluate their wireless communication facilities on a regular basis to ensure that they are consistent with the goals, objectives, policies, and requirements of the General Plan/Local Coastal Program, including specifically siting and design standards meant to minimize any negative impacts to visual resources and the character of the built and natural environment. Wireless service providers are encouraged to individually and collectively pursue modifications to their networks and/or individual facilities to reduce environmental impacts, including visual impacts; particularly over time as new technologies may be developed that allow for less visually intrusive wireless communication facilities, and/or a lesser number of them, while still allowing for the same or better level of wireless communication service associated with both any individual wireless service provider's facilities and the overall universe of wireless communication facilities in the County.

13.10.664 NON-IONIZING ELECTROMAGNETIC RADIATION (NIER) SAFETY AND MONITORING REQUIREMENTS FOR WIRELESS COMMUNICATION FACILITIES:

Initial post-construction monitoring of wireless communication facility NIER/radio-frequency (RF) radiation exposures is required for all wireless communication facilities constructed under the auspices of Sections 13.10.660 through 13.10.668 inclusive ~~et. seq.~~ to prove that all new wireless communication facilities operate in compliance with the FCC RF radiation exposure standards. NIER monitoring is to be conducted utilizing the Monitoring Protocol described in Section 13.10.660(d) above. The County may require that the required NIER/RF radiation monitoring reports described below may be independently reviewed by a qualified telecommunications/RF engineer, at the applicant's expense. The following applies to all wireless communication facilities, ~~except for exempt facilities as described in Section 13.10.660(e):~~

- (a) Public Health and Safety. No wireless communication facility shall be located or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, no telecommunication facility or combination of facilities shall produce at any time power densities in any area that exceed the FCC-adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the Federal government. Areas in the immediate vicinity of all antennas or other transmitting devices in which the FCC RF radiation exposure standards could potentially be exceeded, especially near rooftop antennas, must be clearly demarcated and/or fenced off, with warning signs in English, Spanish and international symbols clearly visible.
- (b) Non-Ionizing Electromagnetic Radiation (NIER) Measurements.
 - (1) Consistent with Section 13.10.662(b)(9) above, all applications for new wireless communication facilities must include written certification by a professional engineer registered in the State of California that the proposed facility will comply with the FCC's RF radiation exposure standard.
 - (2) Post-Construction NIER Measurement and Reporting. Monitoring of (NIER/RF radiation to verify compliance with the FCC's NIER standards is required for all new wireless communication facilities and for all wireless communication facilities proposing to undergo a major modification of power output (as defined in Section 13.10.660(d)). This requirement shall be met through submission of a report documenting NIER measurements at the facility site within 90-days after the commencement of normal operations, or within 90-days after any major modification to power output of the facility. The NIER measurements shall be made, at the applicant's expense, by a qualified third-party telecommunications or radio-frequency engineer, during typical peak-use periods, utilizing the Monitoring Protocol described in Section 13.10.660(d). The report shall list and describe each transmitter/antenna present at the facility, indicating the effective radiated power of each (for co-located facilities this

would include the antennas of all other carriers at the site). The report shall include field measurements of NIER emissions generated by the facility and also other emission sources, from various directions and particularly from adjacent areas with residential dwellings. The report shall compare the measured results to the FCC NIER standards for such facilities.

The report documenting the measurements and the findings with respect to compliance with the established FCC NIER exposure standard, shall be submitted to the Planning Director within 90-days of commencement of facility operation. Failure to comply with this requirement may result in the initiation of permit revocation proceedings by the County.

- (3) Failed Compliance. Failure to supply the required reports, or to remain in continued compliance with the NIER standard established by the FCC, or other regulatory agency if applicable shall be grounds for review of the use permit or other entitlement and other remedy provisions.

13.10.665 REQUIRED FINDINGS FOR WIRELESS COMMUNICATION FACILITIES

In order to grant any Commercial Development Permit for a wireless communication facility and/or any Coastal Development Permit if the facility is located in the Coastal Zone, the approving body shall make the required development permit findings (Section 18.10.230) and the required coastal development permit findings if in the coastal zone (Section 13.20.110) as well as the following findings:

- (a) That either: (1) the development of the proposed wireless communications facility as conditioned will not significantly affect any designated visual resources, ~~or otherwise environmentally sensitive habitat areas or resources;~~ (as defined in the Santa Cruz County General Plan/LCP (Sections 5.1, 5.10, and 8.6.6.), and/or other significant County resources, including agricultural, open space, and community character resources; or (2) there ~~is~~ are no other environmentally equivalent and/or superior and technically feasible alternatives to the proposed wireless communications facility as conditioned (including alternative locations and/or designs) with less visual and/or other resource impacts and the proposed facility has been modified by condition and/or project design to minimize and mitigate its visual and other resource environmental impacts.
- (b) That the site is adequate for the development of the proposed wireless communications facility and, for sites located in one of the prohibited and/or restricted areas set forth in Sections 13.10.661(b) and 13.10.661(c), that the applicant has demonstrated that there are not environmentally equivalent or superior and technically feasible: (1) alternative sites outside the prohibited and restricted areas; and/or (2) alternative designs for the proposed facility as conditioned.
- (c) That the subject property upon which the wireless communications facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and

any other applicable provisions of this Title and that all zoning violation abatement costs, if any, have been paid.

- (d) That the proposed wireless communication facility as conditioned will not create a hazard for aircraft in flight.
- (e) That the proposed wireless communication facility as conditioned is in compliance with all FCC and California PUC standards and requirements.
- (f) For wireless communication facilities in the coastal zone, that the proposed wireless communication facility as conditioned is consistent with the all applicable requirements of the Local Coastal Program

~~If the proposed facility requires a Coastal Development Permit, the Approving Body shall also make the required findings in Section 13.20.110.~~ Any decision to deny a permit for a wireless communication facility shall be in writing and shall be supported by substantial evidence and shall specifically identify the reasons for the decision, the evidence that led to the decision and the written record of all evidence.

13.10.666 SITE RESTORATION UPON TERMINATION/ABANDONMENT OF WIRELESS COMMUNICATION FACILITIES

- (a) The site shall be restored as nearly as possible to its natural, or pre-construction state within six months of termination of use or abandonment of the site.
- (b) Applicant shall enter into a site restoration agreement, consistent with Section 13.10.666(a), subject to the approval of the Planning Director.

13.10.667 INDEMNIFICATION FOR WIRELESS COMMUNICATION FACILITIES:

- (a) Each permit issued pursuant to Sections 13.10.660 through 13.10.668 inclusive et seq. shall have as a condition of the permit, a requirement that the applicant defend, indemnify and hold harmless the County and its officers, agents, and employees from and against any claim (including attorney fees) against the County, its officers, employees or agents to attack, set aside, void or annul the approval of the permit or any subsequent amendment of the permit.

13.10.668 TELECOMMUNICATION ACT ~~VARIANCE-EXCEPTION~~ PROCEDURE:

- (a) If the application of the requirements or limitations set forth in ~~Chapter Sections~~ 13.10.660 through 13.10.668 inclusive et seq., including but not limited to applicable limitations on allowed land uses, would have the effect of violating the Federal Telecommunications Act as amended, the approving body shall grant a Telecommunications Act ~~Variance-Exception~~ to allow an exception to the offending

requirement or application. The applicant shall have the burden of proving that application of the requirement or limitation would violate the Federal Telecommunications Act, and that no alternatives exist which would render the approval of a Telecommunications Act Exception ~~variance~~ unnecessary.

SECTION III

This ordinance shall become effective on the 31st day after the date of final approval in those areas outside the Coastal Zone. This ordinance shall become effective upon certification by the California Coastal Commission in those areas within the Coastal Zone.

SECTION IV

The Board of Supervisors hereby finds, determines, and declares that this ordinance is adopted and is necessary for the protection of the public health, safety and general welfare.

SECTION V

Each application for a wireless communication facility that is deemed complete prior to April 29, 2003 shall be subject to the standards and requirements of Ordinance number 4631, the Interim Wireless Communication Facilities Ordinance, which, for the purposes of such applications only, is incorporated in its entirety into and made a part of this Section by this reference.

PASSED AND ADOPTED this _____ day of _____ 2003, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chairperson of the Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM: _____
Assistant County Counsel

DISTRIBUTION: County Counsel, CAO, Planning Department, Sheriff, General Services